



DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF Nursing  
STATUTES AND REGULATIONS

AS OF MAY 2004

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# **BOARD OF NURSING**

## **45:1-1. Persons entitled to practice, etc. under former laws unaffected**

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

## **45:1-2. Repealed by L.1971, c. 60, § 5, eff. March 25, 1971**

### **45:1-2.1. Professional boards and commissions; application of act**

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Public Movers and Warehousemen and the State Board of Physical Therapy Examiners.

### **45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action**

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State

Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause. No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act. It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section. Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L. 1971, c. 60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

#### **45:1-2.3. Qualifications; rights and duties**

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

#### **45:1–2.4. Effect of act on term of member in office**

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

#### **45:1–2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places**

With respect to the boards or commissions designated in section 1 of P.L.1971, c. 60 (C.45:1–2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.
- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15–6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

#### **45:1–2.6. Inapplicability of act to rights under civil service or any pension law or retirement system**

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,<sup>1</sup> or any pension law or retirement system.

<sup>1</sup> Now title 11A.

#### **45:1–3. Expenses of boards paid from income; surplus paid to state treasurer; accounts**

Each member of the boards mentioned in section 45:1–2 1 of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and

their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

<sup>1</sup>Repealed; see, now, §§ 45:1–2.1, 45:1–2.2.

#### **45:1–3.1. Application of act**

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners and the State Board of Physical Therapy Examiners.

#### **45:1–3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards**

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act <sup>1</sup> may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B–1).

Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

<sup>1</sup> N.J.S.A. § 45:1–3.1.

#### **45:1–3.3. Administrative fees charged by boards; modification**

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

#### **45:1–4. Salary of secretary**

The secretary of each of the boards mentioned in section 45:1–2<sup>1</sup> of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

<sup>1</sup> Repealed. See, now, §§ 45:1–2.1, 45:1–2.2.9

#### **45:1–5, 45:1–6. Repealed by L.1979, c. 432, § 4, eff. Feb. 14, 1980**

#### **45:1–7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees**

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue. The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

##### **45:1–7.1. Application to holders of professional or occupational licenses**

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c. 403 (C.45:1–7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1–15), who seeks renewal of that license or certificate.
- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c. 73 (C.45:1–15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.
- e. A board specified in section 2 of P.L. 1978, c. 73 (C. 45:1–15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

#### **45:1–7.2. Reinstatement**

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c. 403 (C.45:1–7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

#### **45:1–7.3. Renewal applications**

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable. The continuing education hours or credits shall be completed by the applicant within three years prior to the date of application for the return to active status, unless otherwise provided by board rule.

#### **45:1–8. Contractors; application of § 45:1–9**

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1–28 et seq.1);
- b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C.17:16C–62 et seq.);



- c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C.45:5A–1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C–1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A–5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

<sup>1</sup> Renumbered C. 45:15C–1 to 45:15C–10.

#### **45:1–9. Indication of license or certificate number on contracts, bids and advertisements**

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

#### **45:1–10. Disclosure of laboratory payments on bills to patients and third party payors**

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

##### **45:1–10.1. Claims for third party payment; licensed health care professional ; responsibility for filing**

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30–23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30–23).<sup>13</sup>
  - b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30–23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
- (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions per-

mitted pursuant to this subsection shall not apply.

- (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.
- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c. 70 (C.39:6A-1 et seq.).
- d. A health care professional who violates the provisions of subsection
  - a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60<sup>th</sup> day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to “the penalty enforcement law,” N.J.S.2A:58-1 et seq.

#### **45:1-11. Violations; penalty**

Any person violating this act shall be guilty of a misdemeanor.

#### **45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement**

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

#### **45:1-13. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000**

#### **45:1-14. Legislative findings and declarations; liberal construction of act**

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

#### **45:1–15. Boards and professions or occupations regulated by or through such boards; application of act**

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech–Language Pathology Advisory Committee.

#### **45:1–15.1. Rules and regulations**

Consistent with their enabling acts, P.L.1978, c. 73 (C.45:1–14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), the boards and others set forth in section 2 of P.L.1978, c. 73 (C.45:1–15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

#### **45:1–16. Definitions**

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise. “Board” means any professional or occupational licensing board designated in section 2 of this act.<sup>1</sup> “Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

#### **45:1–17. Powers of Attorney General to implement act and administer law enforcement activities of boards**

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B–1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and

regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure.

In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.

- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

#### **45:1-18. Investigative powers of boards, director or attorney general**

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;
- d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;

- e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and
- g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

**45:1–19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty**

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

**45:1–20. Compelling testimony or production of book, paper or document; immunity from prosecution**

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

**45:1–21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions**

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- c. Has engaged in repeated acts of negligence, malpractice or incompetence;
- d. Has engaged in professional or occupational misconduct as may be determined by the board;
- e. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- f. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- g. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- h. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- i. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- j. Has violated any provision of P.L.1983, c. 320 (C.17:33A–1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c. 320 (C.17:33A–1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- k. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term ‘ ‘presently’ ’ means at this time or any time within the previous 365 days; m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution; n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;

- o. Advertised fraudulently in any manner.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

#### **45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records**

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c. 418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c. 418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c. 419 (C. 13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c. 46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c. 73 (C. 47:1A-1 et seq.).

#### **45:1-21.2. Suspension of certain licenses; hearing**

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

#### **45:1-21.3. Licensed health care professionals; penalties for violation of B 30:6D-5.3**

Section effective 180 days after enactment of L.2003, c. 191 [approved Oct. 26, 2003].

A health care professional licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes who violates the provisions of section 3 of P.L.2003, c. 191 (C.30:6D-5.3) shall, in addition to being liable to a civil penalty pursuant to section 4 of P.L. 2003, C. 191 (C.30:6D-5.4) be subject to revocation of that individual’s professional license or other authorization to practice as a health care professional by the appropriate licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, after appropriate notice and opportunity for a hearing.

**45:1–22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpoena**

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;
- f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;
- g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;
- h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary. A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order



the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety. In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

**45:1–23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity**

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

**45:1–24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement**

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58–1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

**45:1–25. Violations; civil penalty; action to collect or enforce**

- a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in

violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
  - (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
  - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58–10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant’s arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.
  - c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.
  - d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

#### **45:1–26. Repeal of inconsistent acts and parts of acts**

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

#### **45:1–27. Severability**

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

#### **45:1–28. Definitions**

As used in this act:

“Applicant” means an applicant for licensure or other authorization to engage in a health care profession.

“Board” means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Health care professional” means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the Board of Pharmacy of the State of New Jersey, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech–Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council or the Certified Psychoanalysts Advisory Committee. Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c. 100 (C.26:2H–83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c. 100 (C.45:11–24.3).

**45:1–29. Criminal history information from FBI and State Police required before initial license issued**

- a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c. 73 (C.45:1–21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

**45:1–30. Information supplied by applicant, exchange of information with other law enforcement agencies; notification upon receipt of information**

- a. An applicant who is required to undergo a criminal history record background check pursuant to section 2 of this act shall submit to the director that individual’s name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.
- b. Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

- c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to the applicant and shall notify the applicant of that denial.

#### **45:1–31. Cost of criminal history record check**

An applicant shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of this act and section 14 of P.L.1997, c. 100 (C.53:1–20.9a), in accordance with procedures determined by regulation of the director.

#### **45:1–32. Rules and regulations**

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

## **CHAPTER 11 NURSES**

#### **45:11–23. Definitions**

As used in this act:

- a. The words “the board” mean the New Jersey Board of Nursing created by this act.
- b. The practice of nursing as a registered professional nurse is defined as diagnosing and treating human responses to actual or potential physical and emotional health problems, through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed or otherwise legally authorized physician or dentist. Diagnosing in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. Such diagnostic privilege is distinct from a medical diagnosis. Treating means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen. Human responses means those signs, symptoms, and processes which denote the individual’s health need or reaction to an actual or potential health problem. The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding; reinforcing the patient and family teaching program through health teaching, health counseling and provision of supportive and restorative care, under the direction of a registered nurse or licensed or otherwise legally authorized physician or dentist.

The terms “nursing,” “professional nursing,” and “practical nursing” as used in this act shall not be construed to include nursing by students enrolled in a school of nursing accredited or approved by the board performed in the prescribed course of study and training, nor nursing performed in hospitals, institutions and agencies approved by the board for this purpose by graduates of such schools pending the results of the first licensing examination scheduled by the board following completion of a course of study and training and the attaining of age qualification for examination, or thereafter with the approval of the board in the case of each individual pending results of subsequent examinations; nor shall any of said terms be construed to include nursing performed for a period not exceeding 12 months unless the board shall approve a longer period, in hospitals, institutions or agencies by a nurse legally qualified under the laws

of another state or country, pending results of an application for licensing under this act, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice under this act; nor shall any of said terms be construed to include the practice of nursing in this State by any legally qualified nurse of another state whose engagement made outside of this State requires such nurse to accompany and care for the patient while in this State during the period of such engagement, not to exceed six months in this State, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice in this State; nor shall any of said terms be construed to include nursing performed by employees or officers of the United States Government or any agency or service thereof while in the discharge of his or her official duties; nor shall any of said terms be construed to include services performed by nurses aides, attendants, orderlies and ward helpers in hospitals, institutions and agencies or by technicians, physiotherapists, or medical secretaries, and such duties performed by said persons aforementioned shall not be subject to rules or regulations which the board may prescribe concerning nursing; nor shall any of said terms be construed to include first aid nursing assistance, or gratuitous care by friends or members of the family of a sick or infirm person, or incidental care of the sick by a person employed primarily as a domestic or housekeeper, notwithstanding that the occasion for such employment may be sickness, if such incidental care does not constitute professional nursing and such person does not claim or purport to be a licensed nurse; nor shall any of said terms be construed to include services rendered in accordance with the practice of the religious tenets of any well-recognized church or denomination which subscribes to the art of healing by prayer. A person who is otherwise qualified shall not be denied licensure as a professional nurse or practical nurse by reason of the circumstances that such person is in religious life and has taken a vow of poverty.

- c. "Homemaker-home health aide" means a person who is employed by a home care services agency and who is performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed registered professional nurse. "Home care services agency" means home health agencies, assisted living residences, comprehensive personal care homes, assisted living programs or alternate family care sponsor agencies licensed by the Department of Health and Senior Services pursuant to P.L.1971, c. 136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and health care service firms regulated by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General pursuant to P.L.1989, c. 331 (C.34:8-43 et seq.) and P.L.1960, c. 39 (C.56:8-1 et seq.) respectively, which are engaged in the business of procuring or offering to procure employment for homemakerhome health aides, where a fee may be exacted, charged or received directly or indirectly for procuring or offering to procure that employment.
- d. "Advanced practice nurse" means a person who holds a certification in accordance with section 8 or 9 of P.L.1991, c. 377 (C.45:11-47 or 45:11-48).
- e. "Collaborating physician" means a person licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes who agrees to work with an advanced practice nurse.

Nothing in this act shall confer the authority to a person licensed to practice nursing to practice another health profession as currently defined in Title 45 of the Revised Statutes.

**45:11-24. The board; appointment of members; terms; oath of office; duties and powers;**

## compensation

- a. The board; appointment; terms. In addition to the members appointed to represent the interests of the public pursuant to P.L.1971, c. 60 as amended by P.L.1977, c. 285 (C.45:1–2.2) the New Jersey Board of Nursing shall consist of 10 members, six of whom shall be registered professional nurses, two of whom shall be licensed practical nurses, one of whom shall be an advanced practice nurse, and one of whom shall be an additional public member, all to be appointed by the Governor. Appointments to the board shall be for terms of five years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. In making appointments the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.
- b. Qualifications for appointment. The advanced practice nurse member shall be a resident of this State, shall be a graduate of an accredited advanced practice nurse program, shall have had at least five years' experience in professional nursing, shall at the time of appointment be actively working as an advanced practice nurse, and, except for the member first appointed, shall hold a certification as an advanced practice nurse pursuant to P.L.1991, c. 377 (C.45:11–45 et al.). Each registered professional nurse member of the board shall be a citizen of the United States and a resident of this State; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least five years' experience in professional nursing following graduation from an accredited school of nursing; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse members of the board shall be citizens of the United States and residents of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least three years' experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or work related thereto.
- c. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.
- e. Duties and powers. The board shall have the following duties and powers:(1) It shall hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for one year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at least five years' experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive secretary shall hold office during the will and pleasure of the board.(4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board.(5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided.

(7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board.

(8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided.

(9) It shall in its discretion investigate and prosecute all violations of provisions of this act.

(10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record the board shall be paid a fee of \$3.00, but such authentication, if made at the request of any public agency of this or any other jurisdiction, may be without fee.

(11) In its discretion it may publish at such times as it shall determine a list of nurses licensed under this act, a list of schools of nursing accredited or approved under this act, and such other information as it shall deem advisable.

(12) It shall prescribe standards and curricula for schools of nursing and evaluate and approve courses for affiliation.

(13) It shall hear and determine applications for accreditation of schools of professional nursing, conduct investigations before and after accreditation of such schools and institutions with which they are affiliated, and issue, suspend or revoke certificates of accreditation as hereinafter provided.

(14) It shall approve schools of practical nursing which shall conform to the standards, curricula, and requirements prescribed by the board, and suspend or revoke approval for violations thereof; provided, that this power shall not extend to schools operated by any board of education in this State.

(15) It may consult with the Medical Society of New Jersey and the New Jersey Hospital Association with respect to any matter relating to the administration of this act and shall consult with those associations with respect to standards and curricula and any change thereof for schools of nursing.

(16) It shall issue subpoenas for the attendance of witnesses and production of documents at any hearing before the board authorized by this act and any member of the board shall administer an oath or affirmation to persons appearing to give testimony at such hearings.

(17) It may conduct any investigations, studies of nursing and nursing education and related matters, and prepare and issue such publications as in the judgment of the board will advance the profession of nursing and its service to the public.

(18) It shall perform all other functions which are provided in this act to be performed by it or which in the judgment of the board are necessary or proper for the administration of this act.

(19) It shall from time to time prescribe rules and regulations not inconsistent with this act.

(20) It shall prescribe standards and curricula for homemaker-home health aide education and training programs which a homemaker-home health aide shall complete in order to work in this State.

(21) It shall review applications to provide homemaker-home health aide training programs and shall issue, suspend or revoke program approval.

(22) It shall establish and maintain a registry of all individuals who have successfully completed a homemaker-home health aide training and competency evaluation program. The board shall provide for the inclusion in the registry of information about the disqualification of any person from certification as a homemaker-home health aide pursuant to sections 7 through 13 of P.L.1997, c. 100 (C.45:11-24.3 through 24.9), including the specific documented findings constituting the basis for that disqualification; except that the information shall indicate that the person was convicted of a crime or disorderly persons offense as described in section 7 of P.L.1997, c. 100 (C.45:11-24.3), but shall not identify the conviction or convictions which constitute the basis for the disqualifica-

tion. (23) It shall prescribe standards and requirements for a competency evaluation program resulting in certification of the homemaker-home health aide, and the renewal, revocation, and suspension of that certification.(24) It shall review applications for homemaker home-health aide certification and shall issue, suspend, revoke, or fail to renew certifications and conduct investigations pursuant to the provisions of P.L.1978, c. 73 (C.45:1–14 et seq.). (25) It shall require that nursing school curricula include, and shall prescribe standards for, the training of registered professional nurses in the supervision of, and the delegation of nursing tasks to, unlicensed assistive personnel, and shall further prescribe standards establishing the criteria for determining those tasks which registered professional nurses may delegate to unlicensed assistive personnel working under their supervision and the type of supervision required with respect to those personnel. (26) It shall prescribe standards and requirements for unlicensed assistive personnel, including initial education and continuing education and a competency evaluation program, which these personnel shall satisfy in order to work in this State. As used in this paragraph and in paragraph (25) of this subsection, “unlicensed assistive personnel” means any unlicensed or uncertified personnel employed by a licensed health care facility that perform nursing tasks which do not require the skill or judgement of a registered professional nurse and which are assigned to them by, and carried out under the supervision of, a registered professional nurse. (27) It may require licensees to meet continuing education requirements as a condition of relicensure.

- e. Compensation. Each member of the board shall receive \$15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

#### **45:11–24.1. Homemaker—home health aide certification; fee**

An applicant for a homemaker-home health aide certification shall pay a fee as prescribed by the board at the time of application and at the time of each application for re-examination.

#### **45:11–24.2. Competency evaluations for homemaker-home health aides**

The board shall provide that a person may satisfy the examination requirement for certification as a homemaker-home health aide by passing an oral competency evaluation in English or Spanish.

#### **45:11–24.3. Criminal History Record Checks; Conditional Employment; Disqualification of Applicant**

- a. The New Jersey Board of Nursing in the Division of Consumer Affairs in the Department of Law and Public Safety shall not issue a homemaker-home health aide certification to any applicant, except on a conditional basis as provided for in subsection d. of section 8 of P.L.1997, c. 100 (C.45:11–24.4), unless the board first determines, consistent with the requirements of sections 7 through 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that person from being certified. A homemaker-home health aide certified by the board prior to the effective date of P.L.2000, c. 20 (C.45: 11–24.3 et al.) and upon whom a criminal history record background check has not been conducted pursuant to sections 7 through 13 of P.L.1997, c. 100 (C.45: 11–24.3 through 24.9), shall be required to undergo that criminal history record background check as a condition of that individual’s initial recertification following the effective date of P.L.2000, c.20.

In addition, a follow-up criminal history record background check of federal records shall be



conducted at least once every two years as a condition of recertification for every certified homemaker-home health aide; except that the board, in lieu of conducting follow-up criminal history record background checks for purposes of recertification, may provide for an alternative means of determining whether a certified homemaker-home health aide has been convicted of a crime or disorderly persons offense which would disqualify that person from certification, including, but not limited to, a match of a person's Social Security number or other identifying information with records of criminal proceedings in this and other states. If the board elects to implement this alternative means of determining whether a certified homemaker-home health aide has been convicted of a crime or disorderly persons offense which would disqualify that person from certification, the board shall report to the Governor and the Legislature prior to its implementation on the projected costs and procedures to be followed with respect to its implementation and setting forth the rationale therefor.

A person shall be disqualified from certification if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

- (1) In New Jersey, any crime or disorderly persons offense:
  - (a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or
  - (b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or
  - (c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes; or
  - (d) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.
- (2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.
- b. Notwithstanding the provisions of subsection a. of this section, no person shall be disqualified from certification on the basis of any conviction disclosed by a criminal history record background check performed pursuant to sections 7 through 13 and section 14 of P.L.1997, c. 100 (C.45:11-24.3 through 24.9 and C.53:1-20.9a) if the person has affirmatively demonstrated to the New Jersey Board of Nursing in the Division of Consumer Affairs clear and convincing evidence of the person's rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:
  - (1) the nature and responsibility of the position which the convicted person would hold , has held or currently holds, as the case may be;
  - (2) the nature and seriousness of the offense;
  - (3) the circumstances under which the offense occurred;
  - (4) the date of the offense;
  - (5) the age of the person when the offense was committed;
  - (6) whether the offense was an isolated or repeated incident;

- (7) any social conditions which may have contributed to the offense; and (8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision. c. If a person subject to the provisions of sections 7 through 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9) refuses to consent to, or cooperate in, the securing of a criminal history record background check, the New Jersey Board of Nursing shall, as applicable:

(1) not issue a homemaker-home health aide certification and shall notify the applicant, and the applicant's employer if the applicant is conditionally employed as provided in subsection d. of section 8 of P.L. 1997, c. 100 (C.45:11–24.4) or the applicant's prospective employer if known, of that denial; or (2) revoke the person's current homemaker-home health aide certification and notify the person, and the person's employer, if known, of that revocation.

#### **45:11–24.4. Application for Criminal History Record Check**

- a. An applicant for homemaker-home health aide certification, or a certified person who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c. 100 (C.45:11–24.3), shall submit to the New Jersey Board of Nursing that individual's name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. The board is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by sections 7 through 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9).
- b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the New Jersey Board of Nursing shall immediately notify, in writing, the applicant, and the applicant's employer if the applicant is conditionally employed as provided in subsection d. of this section or the applicant's prospective employer, if known, or the certified person who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c. 100 (C.45:11–24.3) and that person's employer, as applicable, of the person's qualification or disqualification for homemaker-home health aide certification under sections 7 through 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9). If the person is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the notice to the person, but shall not be identified in the notice to the person's employer or prospective employer.
- c. The person who is the subject of the background check shall have 30 days from the date of the written notice of disqualification to petition the New Jersey Board of Nursing for a hearing on the accuracy of the person's criminal history record information or to establish the person's rehabilitation under subsection b. of section 7 of P.L.1997, c. 100 (C.45:11–24.3). The board shall notify the person's employer or prospective employer of the person's petition for a hearing within five days following the receipt of the petition from the person. Upon the issuance of a final decision upon a petition to the board pursuant to this subsection, the board shall notify the person and the person's employer or prospective employer as to whether the person remains disqualified from certification under sections 7 through 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9).
- d. An applicant for certification may be issued conditional certification and may be employed as a

homemaker-home health aide conditionally for a period not to exceed 60 days, pending completion of a criminal history record background check required under sections 7 through 13 of P.L.1997,

- c. 100 (C.45:11–24.3 through 24.9) by the Division of State Police in the Department of Law and Public Safety based upon an examination of its own files in accordance with section 14 of P.L.1997, c. 100 (C.53:1–20.9a), and for an additional period not to exceed 60 days pending completion of a criminal history record background check by federal authorities as arranged for by the Division of State Police pursuant to section 14 of P.L.1997, c. 100 (C.53:1–20.9a), if the person submits to the New Jersey Board of Nursing a sworn statement attesting that the person has not been convicted of any crime or disorderly persons offense as described in section 7 of P.L.1997, c. 100 (C.45:11–24.3). A person who submits a false sworn statement shall be disqualified from certification as a homemaker-home health aide and shall not have an opportunity to establish rehabilitation pursuant to subsection b. of section 7 of P.L.1997, c. 100 (C.45:11–24.3).

A conditionally employed person, or an employed person certified as a homemaker-home health aide, who disputes the accuracy of the criminal history record information and who files a petition requesting a hearing pursuant to subsection c. of this section may remain employed by that person's employer until the board rules on the person's petition but, pending the board's ruling, the employer shall not permit the person to have unsupervised contact with patients or clients who are 60 years of age or older.

- e. (1) A home care services agency that has received an application from or conditionally employed an applicant for homemaker-home health aide certification, or has employed a certified homemaker-home health aide, and
  - (a) receives notice from the board that the applicant or certified homemaker-home health aide, as applicable, has been determined by the board to be disqualified from certification as a homemaker-home health aide pursuant to sections 7 through 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9); or
  - (b) terminates its employment of a conditionally employed applicant for homemaker-home health aide certification or a certified homemaker-home health aide because the person was disqualified from employment at the home care services agency on the basis of a conviction of a crime or disorderly persons offense as described in section 7 of P.L.1997, c. 100 (C.45:11–24.3) after commencing employment at the home care services agency; shall be immune from liability for disclosing that disqualification or termination in good faith to another home care services agency.
- (2) A home care services agency which discloses information pursuant to paragraph (1) of this subsection shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the home care services agency acted with actual malice toward the person who is the subject of the information.
- f. (1) A home care services agency, upon receiving notice from the board that a person employed by it as a homemaker-home health aide, including a conditionally employed person, has been convicted of a crime or disorderly persons offense as described in section 7 of P.L.1997, c. 100 (C.45:11–24.3) after commencing employment at the home health care agency or other entity, shall:

- (a) immediately terminate the person's employment as a homemakerhome health aide; and
  - (b) report information about the conviction and termination to the board in a manner prescribed by the board, which shall thereupon deem the person to be disqualified from certification as a homemaker-home health aide, subject to the provisions of paragraph (3) of this subsection.
- (2) A home care services agency shall be immune from liability for any actions taken in good faith pursuant to paragraph (1) of this subsection and shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the home care services agency acted with actual malice toward the employee.
- (3) The person terminated from employment pursuant to paragraph (1) of this subsection shall have 30 days from the date of the termination to petition the board for a hearing on the accuracy of the information about the conviction reported to the board or to establish why the person should not be terminated from employment, and disqualified from certification, as a homemaker-home health aide. The board shall notify the person's employer of the person's petition for a hearing within five days following the receipt of the petition from the person. Upon the issuance of a final decision upon a petition to the board pursuant to this paragraph, the board shall notify the person and the person's employer as to whether:
- (a) the person is to be reinstated in his employment as a homemakerhome health aide and retain his certification; or
  - (b) the person's termination from employment as a homemaker-home health aide stands and the person remains disqualified from certification.

#### **45:11–24.5. Responsibility for Costs of Criminal History Record Check**

The Department of Law and Public Safety shall assume the cost of the criminal history record background check conducted on an applicant for homemaker-home health aide certification pursuant to sections 7 through 13 and section 14 of P.L.1997, c. 100 (C.45:11–24.3 through 24.9 and C.53:1–20.9a), or a certified homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c. 100 (C.45:11–24.3), as applicable.

#### **45:11–24.6. Biennial Recertification from Board of Nursing**

The Division of Consumer Affairs shall require that the New Jersey Board of Nursing issue biennial recertifications to homemaker-home health aides only upon receiving documented proof from a home health agency or health care service firm that the homemaker-home health aide is currently employed and regularly supervised by a registered professional nurse.

#### **45:11–24.7. Contents of Board of Nursing Certificate**

The Division of Consumer Affairs shall require that a New Jersey Board of Nursing certificate issued to a homemaker-home health aide contain the following statement: "Valid only if certified homemaker-home health aide is employed by a home health agency or health care service firm and is performing delegated nursing regimen or nursing tasks delegated through the authority of a duly licensed registered professional nurse."

#### **45:11–24.8. Adoption of Rules and Regulations**

In accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), the New Jersey Board of Nursing in the Division of Consumer Affairs shall adopt rules and regulations necessary to implement the provisions of sections 7 through 9 and section 13 of P.L.1997, c. 100 (C.45:11–24.3 through 24.5 and C.45:11–24.9).

#### **45:11–24.9. Failure of Employer to Comply With Criminal History Record Check Requirements**

Any person submitting a false sworn statement pursuant to section 8 of P.L.1997, c. 100 (C.45:11–24.4) shall be subject to a fine of not more than \$1,000, which may be assessed by the New Jersey Board of Nursing.

#### **45:11–25. Secretary-treasurer and executive secretary; bond; accounts; reports**

The secretary-treasurer before taking office and the executive secretary before entering upon his or her duties shall each give to the State of New Jersey a bond with surety, in a penal sum to be determined by the board, conditioned for the faithful performance of his or her duties. The secretary-treasurer shall keep an account of all moneys received and expended and shall render a detailed statement thereof to the State Comptroller on June thirtieth of each year or as soon thereafter as practicable and shall also submit to the Governor on June thirtieth of each year or as soon thereafter as practicable a general statement of the work of the board, including therein a statement of the number of applications received, approved and rejected during the year reported upon.

#### **45:11–26. Professional nurses**

- a. Qualifications of applicants. An applicant for a license to practice professional nursing shall submit to the board evidence in such form as the board may prescribe that said applicant: (1) has attained his or her eighteenth birthday; (2) is of good moral character, is not a habitual user of drugs and has never been convicted or has not pleaded nolo contendere, non vult contendere or non vult to an indictment, information or complaint alleging a violation of any Federal or State law relating to narcotic drugs; (3) holds a diploma from an accredited 4-year high school or the equivalent thereof as determined by the New Jersey State Department of Education; (4) has completed a course of professional nursing study in an accredited school of professional nursing as defined by the board and holds a diploma therefrom.

Notwithstanding anything herein contained, any person who possesses the educational and school of professional nursing qualifications for registration required by the law of this State at the time of his or her graduation from an accredited school of professional nursing shall be deemed to possess the qualifications (3) and (4) prescribed hereinabove in this subsection.

Notwithstanding anything herein contained, any person who shall have qualifications (1) and (2) and shall have graduated from a school of professional nursing, which need not be an accredited school, shall be deemed to have qualifications (3) and (4) upon complying with such reasonable requirements as to high school and school of nursing studies and training as the board may prescribe; provided, however, that such person shall make application in form prescribed by the board within 1 year from the effective date of this act and shall satisfactorily complete such reasonable requirements and successfully pass the examinations, which examinations shall be limited to subject matters in the curriculum required by the board at the time of the applicant’s graduation, provided for in subsection b. hereof, within 2 years after the date of the filing of such application.

- b. License.

- (1) By examination. The applicant shall be required to pass a written examination in such subjects as the board may determine, which examination may be supplemented by an oral or practical examination or both. Upon successfully passing such examinations the applicant shall be licensed by the board to practice professional nursing.
  - (2) By indorsement without examination. The board may issue a license to practice professional nursing without examination to an applicant who has been duly licensed or registered as a registered or professional nurse by examination or by original waiver under the laws of another State, territory or possession of the United States, or the District of Columbia, or any foreign country, if in the opinion of the board the applicant has the qualifications required by this act for the licensing of professional nurses, or equivalent qualifications.
- c. Fees. An applicant for a license by examination shall pay to the board at the time of application a fee of \$25.00 and at the time of each application for re-examination a fee of \$20.00. An applicant for a license without examination shall pay to the board at the time of application a fee of \$15.00.
  - d. Nurses registered under a previous law. Any person who on the effective date of this act holds a subsisting certificate of registration as a registered nurse issued pursuant to the provisions of the act repealed by section 22 of this act <sup>1</sup> shall be deemed to be licensed as a professional nurse under this act during the calendar year in which this act shall take effect, and such person and any person who heretofore held a certificate of registration under said act hereby repealed as aforesaid shall be entitled to a renewal of such license as in the case of professional nurses licensed originally under this act.
  - e. Title and abbreviations used by licensee. Any person who holds a license to practice professional nursing under this act shall during the effective period of such license be entitled to use the title "Registered Nurse" and the abbreviation "R.N." The effective period of a license or a renewal thereof shall commence on the date of issuance and shall terminate at the end of the calendar year in which it is issued, and shall not include any period of suspension ordered by the board as hereinafter provided.

<sup>1</sup> N.J.S.A. § 45:11–44.

#### **45:11–27. Practical nursing**

- a. Qualifications of applicants. An applicant for a license to practice practical nursing shall submit to the board evidence in such form as the board may prescribe that the applicant (1) has attained his or her eighteenth birthday; (2) is of good moral character, is not an habitual user of drugs and has never been convicted or has not pleaded nolo contendere, non vult contendere or non vult to an indictment, information or complaint alleging a violation of any Federal or State law relating to narcotic drugs; (3) has completed 2 years of high school or the equivalent thereof, as determined by the New Jersey State Department of Education; (4) has completed a course of study in a school of practical nursing approved by the board and holds a diploma therefrom, or holds a diploma from a school of practical nursing operated by a board of education in this State and is certified by the Department of Education as having completed the number of hours of instruction in the subjects in the curriculum prescribed by the board and an approved course of affiliation or has equivalent qualifications as determined by the board.
- b. License.
  - (1) By examination. The applicant shall be required to pass a written examination in such subjects

as the board may determine, which examination may be supplemented by an oral or practical examination or both. Upon successfully passing such examinations, the applicant shall be licensed by the board to practice practical nursing.

- (2) By indorsement without examination. The board shall issue a license to practice practical nursing without examination to any applicant who has been duly licensed as a practical nurse or a person entitled to perform similar services under a different title by practical nurse examination or by original waiver under the laws of another State, territory or possession of the United States, or the District of Columbia, if in the opinion of the board the applicant has the qualifications required by this act for licensing of practical nurses or equivalent qualifications.
- (3) Waiver. If application therefor is made, upon a form prescribed by the board, on or before September 1, 1958, the board shall issue without examination a license to practice practical nursing to an applicant who submits to the board evidence in such form as the board may prescribe that the applicant has qualifications (1) and (2) provided in subsection “a” of this section and had within 5 years prior to application at least 2 years of satisfactory experience in practical nursing, at least 1 year of which shall have been performed in this State except in cases of such nursing performed in an agency or service of the Federal Government; provided, that except in cases of such nursing performed in an agency or service of the Federal Government, such applicant is indorsed under oath by 2 physicians duly licensed to practice medicine and surgery in New Jersey who have personal knowledge of the applicant’s qualifications and satisfactory performance of practical nursing and by 2 persons who have employed the applicant.
- c. Fees. An applicant for license by examination shall pay to the board at the time of application a fee of \$20.00 and at the time of each application for re-examination a fee of \$10.00. At the time of application an applicant for license without examination shall pay to the board a fee of \$10.00, and an applicant for license by waiver shall pay to the board a fee of \$10.00.
- d. Title used by licensee. Any person who holds a license to practice practical nursing under this act shall during the effective period of such license be entitled to practice practical nursing and to use the title “Licensed Practical Nurse” and the abbreviation “L.P.N.” The effective period of a license or a renewal thereof shall commence on the date of issuance and shall terminate at the end of the calendar year in which it is issued, and shall not include any period of suspension ordered by the board as hereinafter provided.

#### **45:11–33. School of professional nursing**

- a. Application for accreditation. Any person, partnership, association, corporation or public educational institution desiring to conduct a school of professional nursing shall submit to the board evidence in such form as the board may require that the applicant: (1) is equipped to give the course of instruction and practice set forth in the curriculum prescribed by the board, part of which instruction and practice may, with the approval of the board, be given by arrangement with one or more agencies or institutions approved by the board for that purpose; (2) is affiliated with a hospital of such size and facilities as the board may prescribe; (3) meets such other standards and requirements as the board may prescribe. In any case other than an application by a public educational institution the board may require evidence of good moral character of all persons directly or indirectly interested in the operation of such school. Upon approval of the application the board shall issue a certificate of accreditation, which may be conditional during the first year.
- b. Rights and obligations of holders of certificates of accreditation. The holder of a certificate of

accreditation shall have the right during the effective period of the certificate of accreditation to conduct a school of professional nursing. The effective period of such certificate or a renewal thereof shall commence on the date of issuance and shall terminate at the end of the fiscal year, July first to June thirtieth, in which it is issued, and shall not include any period of suspension ordered by the board as hereinafter provided. An accredited school of professional nursing shall admit as students only persons possessing the preliminary educational requirements set forth in section four hereof, shall abide by and conform to the curriculum and standards of operation prescribed from time to time by the board, shall make such reports to the board as the board may require, and shall submit to such investigations by representatives of the board as the board may require.

**45:11–34. Renewal of certificates of accreditation**

Applications for renewal of certificates of accreditation issued under this act shall be made at such times and in such form and contain such information as the board shall prescribe.

**45:11–35. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000**

**45:11–36. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980**

**45:11–37. Violations of the act**

It shall be unlawful for any person (including any corporation, partnership, association or individual):

- a. After September 1, 1956, to practice or offer to practice professional nursing as defined by this act, unless such person holds an effective, unsuspended license as a registered nurse under this act; or
- b. After September 1, 1959, to practice or offer to practice practical nursing or to represent that such person is a practical nurse unless such person holds an effective, unsuspended license as a practical nurse under this act; or
- c. To represent in any way that such person is a registered nurse or to use after his or her name the abbreviation “R.N.” unless such person holds an effective, unsuspended license as a professional nurse under this act; or
- d. To represent in any way that such person is licensed as a practical nurse or to use the title “Licensed Practical Nurse” or to use after his or her name the abbreviation “L.P.N.” unless such person holds an effective, unsuspended license as a practical nurse under this act; or
- e. To conduct or to represent in any way that such person conducts a school for professional nursing, unless such person holds an effective, unsuspended certificate of accreditation under this act; or
- f. After January 1, 1950, to conduct or to represent in any way that such person conducts a school for practical nursing unless such person holds the subsisting, unsuspended approval of the board; or
- g. To obtain or attempt to obtain by fraud a license or renewal thereof or a certificate of accreditation or a renewal thereof under this act; or
- h. To represent in any way that such person is authorized to issue a license for the practice of professional nursing or practical nursing or a certificate of accreditation for a school of professional nursing; or



- i. To transfer, offer to transfer, or permit the use by another of any license issued under this act; or
- j. Without the approval of the board, to transfer, offer to transfer, or permit the use by another of a certificate of accreditation issued under this act; or
- k. Otherwise to violate any provision of this act; or
- l. To aid or abet any person to violate any provision of this act.

Every person violating any of the foregoing provisions of this section shall be subject to a penalty of \$200.00 for each violation, and if after conviction as hereinafter provided such person shall again violate any provision of this act, such person shall be subject to a penalty of \$500.00 for each subsequent offense. A voluntary payment of a penalty for a violation of any provision of this act shall be deemed to be a conviction rendering such person liable for the greater penalty for subsequent violations, and the continuation of an offense after conviction shall be deemed to be a subsequent offense.

**45:11–38, 45:11–39. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980**

**45:11–40 to 45:11–42. Repealed by L.1953, c. 43, §§ 58–60, eff. March 19, 1953**

**45:11–43. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980**

**45:11–44. Repeals**

Section 18:20–4 of the Revised Statutes is hereby repealed. Sections 45:11–1 to 22, inclusive, of the Revised Statutes are hereby repealed; provided, however, that the said sections shall continue in effect for the following purposes, the necessary powers and duties vested by said sections in the New Jersey State Board of Examiners of Nurses being hereby transferred to the board:

- a. to complete all proceedings with reference to applications for registration under said chapter filed with the New Jersey State Board of Examiners of Nurses prior to the effective date of this act;
- b. to complete and to institute and complete all proceedings for revocation of certificates of registration issued under that chapter by reason of any facts arising prior to the effective date of this act.

The board is hereby empowered to take over and complete all unfinished undertakings or projects of the New Jersey State Board of Examiners of Nurses and to assume and pay all obligations incurred by that board.

**45:11–45. Nurse practitioner/clinical nurse specialist certification act; short title**

This act shall be known and may be cited as the “Advanced Practice Nurse Certification Act.”

**45:11–46. Certification as nurse practitioner/clinical nurse specialist required**

- a. (1) No person shall practice as an advanced practice nurse or present, call or represent himself as an advanced practice nurse unless certified in accordance with section 8 or 9 of P.L.1991, c. 377 (C.45:11–47 or 45:11–48).
- (2) Nothing in this act shall be construed to limit, preclude, or otherwise interfere with the practices of other persons licensed by appropriate agencies of the State of New Jersey, provided that such duties are consistent with the accepted standards of the person’s profession and the person does not represent himself as an advanced practice nurse.
- b. No person shall assume, represent himself as, or use the title or designation advanced practice

nurse or the abbreviation “A.P.N.” or any other title or designation which indicates or implies that he is an advanced practice nurse unless certified pursuant to section 8 or 9 of P.L.1991, c. 377 (C.45:11–47 or 45:11–48).

- c. Whenever the titles or designations “nurse practitioner,” “clinical nurse specialist” or “nurse practitioner/clinical nurse specialist” occur or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the title or designation “advanced practice nurse.”

#### **45:11–47. Requirements for certification**

- a. The New Jersey Board of Nursing may issue a certification as an advanced practice nurse to an applicant who fulfills the following requirements:
  - (1) Is at least 18 years of age;
  - (2) Is of good moral character;
  - (3) Is a registered professional nurse;
  - (4) Has successfully completed an educational program, including pharmacology, approved by the board; and
  - (5) Has passed a written examination approved by the board.
- b. In addition to the requirements of subsection a. of this section, an applicant for renewal of a certification as an advanced practice nurse shall present satisfactory evidence that, in the period since the certification was issued or last renewed, all continuing education requirements have been completed as required by regulations adopted by the board.
- c. The board may accept, in lieu of the written examination required by paragraph (5) of subsection a. of this section, proof that an applicant for certification holds a current certification in a state which has standards substantially equivalent to those of this State.

#### **45:11–48. Certification issued to applicants previously certified by national accrediting organization**

For 180 days following the date procedures are established by the New Jersey Board of Nursing for applying for certification under this section, the board may issue a certification as a nurse practitioner/clinical nurse specialist to an applicant who fulfills the following requirements:

- a. Is at least 18 years of age;
- b. Is of good moral character;
- c. Is a registered professional nurse; and
- d. Has been certified as a nurse practitioner, clinical nurse specialist or advanced practice nurse by a national accrediting organization, which:
  - (1) is approved by the board;
  - (2) includes pharmacology in its required curriculum; and
  - (3) requires successful completion of a written examination, including pharmacology, of all persons awarded its certificates.

**45:11–49. Authority of nurse practitioner/clinical nurse specialist to perform tasks, order medications or devices, or make prescriptions; standards of joint protocols**

- a. In addition to all other tasks which a registered professional nurse may, by law, perform, an advanced practice nurse may manage specific common deviations from wellness and stabilized long-term illnesses by:
  - (1) initiating laboratory and other diagnostic tests; and
  - (2) prescribing or ordering medications and devices, as authorized by subsections b. and c. of this section.
- b. An advanced practice nurse may order medications and devices in the inpatient setting, subject to the following conditions:
  - (1) Controlled dangerous substances may be ordered:
    - (a) to continue or reissue an order or prescription for a controlled dangerous substance originally ordered or prescribed by the collaborating physician or to otherwise adjust the dosage of that medication, provided there is prior consultation with the collaborating physician or a physician designated by the collaborating physician; or
    - (b) for a patient in an end-of-life situation or as part of a treatment plan for a patient with a terminal illness.
  - (2) the order is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;
  - (3) the advanced practice nurse authorizes the order by signing his own name, printing the name and certification number, and printing the collaborating physician's name;
  - (4) the physician is present or readily available through electronic communications;
  - (5) the charts and records of the patients treated by the advanced practice nurse are reviewed by the collaborating physician and the advanced practice nurse within the period of time specified by rule adopted by the Commissioner of Health and Senior Services pursuant to section 13 of
  - (6) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated and signed at least annually by both parties.
- c. An advanced practice nurse may prescribe medications and devices in all other medically appropriate settings, subject to the following conditions:
  - (1) Controlled dangerous substances may be prescribed:
    - (a) to continue or reissue an order or prescription for a controlled dangerous substance originally ordered or prescribed by the collaborating physician or to otherwise adjust the dosage of that medication, provided there is prior consultation with the collaborating physician or a physician designated by the collaborating physician; or (b) for a patient in an end-of-life situation or as part of a treatment plan for a patient with a terminal illness.
  - (2) the prescription is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

- (3) the advanced practice nurse writes the prescription on the prescription blank of the collaborating physician, signs his name to the prescription and prints his name and certification number;
- (4) the prescription is dated and includes the name of the patient and the name, address and telephone number of the collaborating physician;
- (5) the physician is present or readily available through electronic communications;
- (6) the charts and records of the patients treated by the advanced practice nurse are periodically reviewed by the collaborating physician and the advanced practice nurse; and (7) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated and signed at least annually by both parties. d. The joint protocols employed pursuant to subsections b. and c. of this section shall conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c. 377 (C.45:11–51) or section 10 of P.L.1999, c. 85 (C.45:11–49.2), as applicable. e. As used in this section: “end-of-life situation” means having an incurable medical condition caused by injury, disease or illness which to a reasonable degree of medical certainty makes death imminent, and from which there can be no recovery despite the application of life-sustaining procedures; and “terminal illness” means a medical condition which results in a patient’s life expectancy being 12 months or less.

#### **45:11–49.1. Home health care service firms authorized to possess and administer certain noncontrolled drugs**

Notwithstanding the provisions of any other law to the contrary, a home health care agency licensed pursuant to P.L.1971, c. 136 (C. 26:2H–1 et seq.), a health care service firm registered pursuant to N.J.A.C. 13:45B–14.1 et seq., a Medicare-certified hospice program or the employees of the agency, firm or program who are registered professional nurses may purchase, store or transport for the purpose of administering to their home health patients the following noncontrolled drugs: sterile saline solution, sterile water, adrenalin/epinephrine, diphenhydramine hydrochloride, heparin flush solution and any other noncontrolled drug approved by the New Jersey Board of Nursing, in consultation with the State Board of Medical Examiners and the New Jersey Board of Pharmacy. Such drugs shall only be administered pursuant to protocols utilized by a health care professional licensed to prescribe drugs in New Jersey.

The New Jersey Board of Nursing, in consultation with the State Board of Medical Examiners and the New Jersey Board of Pharmacy, may adopt rules and regulations establishing minimum standards for the purchase, storage, handling, use and disposal of such drugs pursuant to this act.

#### **45:11–49.2. Adoption of standards for joint protocols**

No later than the 180<sup>th</sup> day after the enactment of P.L.1999, c. 85, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt standards for the joint protocols required by subsection d. of section 10 of P.L.1991, c. 377 (C.45:11–49), which shall apply to the ordering or prescription of controlled dangerous substances by an advanced practice nurse pursuant to that section. The standards shall be adopted by regulation in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.).

#### **45:11–50. Powers and duties of New Jersey Board of Nursing**

In addition to such other powers as it may by law possess, the New Jersey Board of Nursing shall have the following powers and duties;

- a. To promulgate, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), rules and regulations to effectuate the purposes of this act, except for those subjects of rule-making authority allocated to the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c. 377 (C.45:11–51) or to the Commissioner of Health and Senior Services pursuant to section 13 of P.L.1991, c. 377 (C.45:11–52); b. To evaluate and pass upon the qualifications of candidates for certification as advanced practice nurses; c. To evaluate and pass upon national accreditation organizations and the holders of certificates from those organizations as necessary to award certificates pursuant to section 9 of P.L.1991, c. 377 (C.45:11–48); d. To establish specialty areas of practice for advanced practice nurses; e. To take disciplinary action, in accordance with P.L.1978, c. 73 (C.45:1–14 et seq.) against an advanced practice nurse who violates the provisions of this act, any regulation promulgated thereunder, or P.L.1978, c. 73 (C.45:1–14 et seq.); f. To approve the examination to be taken by candidates for certification; g. To set standards of professional conduct for advanced practice nurses; h. To set fees for examinations, certification and other services consistent with section 2 of P.L.1974, c. 46 (C.45:1–3.2); i. To set standards for and approve continuing education programs; and j. To determine whether the requirements of another state with respect to certification as an advanced practice nurse are substantially equivalent to those of this State in accordance with subsection c. of section 8 of P.L.1991, c. 377 (C.45:11–47).

#### **45:11–51. Standards for joint protocols established by Director of Division of Consumer Affairs**

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may receive and shall give due consideration to advice from the Board of Nursing and the State Board of Medical Examiners in adopting standards for the joint protocols required by subsection d. of section 10 of P.L.1991, c. 377 (C. 45:11–49). The standards shall be established by rule adopted by the Director of the Division of Consumer Affairs in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B–1 et seq.).

#### **45:11–52. Time for review of charts and records of patients treated by nurse practitioner/clinical nurse specialist**

The Commissioner of Health and Senior Services shall, by rule adopted in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), establish the periods of time within which the charts and records of the patients treated by the advanced practice nurse in an inpatient setting shall be reviewed by the advanced practice nurse and the collaborating physician, as required by paragraph (5) of subsection b. of section 10 of P.L.1991, c. 377 (C.45:11–49).

#### **45:11–53. Short title**

This act shall be known and may be cited as the “Massage, Bodywork and Somatic Therapist Certification Act.”

#### **45:11–54. Legislative findings**

The Legislature finds and declares that:

- a. the public interest requires the establishment of clear certification standards for massage, bodywork and somatic therapists;
- b. the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified to call themselves massage, bodywork and somatic therapists; and

- c. the regulation of massage, bodywork and somatic therapists will benefit the public by encouraging it to take advantage of massage, bodywork and somatic therapies as a viable complement to traditional medicine.

#### **45:11–55. Definitions**

As used in this act:

“Board” means the New Jersey Board of Nursing.

“Committee” means the Massage, Bodywork and Somatic Therapy Examining Committee established pursuant to section 4 of this act. “Licensee” means any person who holds a certification pursuant to the provisions of this act.

“Massage, bodywork and somatic therapist” means a person certified pursuant to the provisions of this act.

“Massage, bodywork and somatic therapies” or “massage, bodywork and somatic” means systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, explaining and describing myofascial movement, selfcare and stress management as it relates to massage, bodywork and somatic therapies. Massage, bodywork and somatic therapy practices are designed to affect the energetic system of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

#### **45:11–56. Examining committee; members; requirements appointment**

- a. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety, under the New Jersey Board of Nursing, a Massage, Bodywork and Somatic Therapy Examining Committee. The committee shall consist of six members who are residents of the State and are certified massage, bodywork and somatic therapists who have been actively engaged in the practice of massage, bodywork and somatic therapies in this State for at least five years immediately preceding their appointment, except that the committee shall not have at any one time more than two members who practice a particular method and manner of treatment of massage, bodywork and somatic therapies.
- b. For a period of one year after the effective date of this act and notwithstanding any other provisions of this act to the contrary, the first six massage, bodywork and somatic therapists appointed as members of the committee shall not be required, at the time of their first appointment, to be certified to practice massage, bodywork and somatic therapies.
- c. The Governor shall appoint each committee member with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the committee shall be filled for the unex-

pired term in the manner provided for the original appointment. No member of the committee may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

#### **45:11–57. Compensation**

The members of the committee shall serve without compensation. Members shall be reimbursed by the State Treasurer for their actual expenses arising out of their service on the committee. All reimbursements shall be paid from the revenues of the board.

#### **45:11–58. Election of members**

The committee shall annually elect from among its members a chairman and a vicechairman and may appoint a secretary, who need not be a member of the committee. The committee shall meet at least twice per year and may hold additional meetings as necessary to discharge its duties.

#### **45:11–59. Committee duties and responsibilities**

The committee shall:

- a. Review the qualifications of applicants for certification;
- b. Insure the proper conduct and standards of examinations;
- c. Issue and renew certificates of certification to massage, bodywork and somatic therapists pursuant to this act;
- d. Suspend, revoke or fail to renew the certificate of certification of a massage, bodywork and somatic therapist pursuant to the provisions of P.L.1978, c. 73 (C.45:1–14 et seq.); e. Establish any standards for the continuing education of licensees as it deems necessary; f. Prescribe or change the charges for examinations, certifications, renewals and other services performed pursuant to P.L.1974, c. 46 (C.45:1–3.1 et seq.); and g. Maintain a record of every massage, bodywork and somatic therapist certified in this State, and the date and number of his certificate of certification, and publish a list of the names and addresses of all licensees annually.

#### **45:11–60. Certification requirements**

To be eligible for certification as a massage, bodywork and somatic therapist, an applicant shall be of good moral character and submit to the committee satisfactory evidence of: a. Successful completion of a minimum of 500 hours in class study in the field of massage, bodywork and somatic therapies approved by the committee; or b. Successful completion of the written examination offered by The National Certification Board for Therapeutic Massage and Bodywork or a substantially equivalent examination approved by the committee to determine the applicant's competence to call himself a massage, bodywork and somatic therapist. The successful completion of any such examination may have been accomplished before the effective date of this act.

#### **45:11–61. Certification without satisfying education or examination requirements**

For 720 days after the date procedures are established by the committee for applying for certification under section 8 of this act, any person who engaged in the full-time practice, as determined by the committee, of massage, bodywork and somatic therapies for two years preceding the enactment date of this act, or in the part-time practice, as determined by the committee, of massage, bodywork and somatic therapies for five years preceding the enactment date of this act, and has successfully completed a minimum of 200 hours of education or training in massage, bodywork and

somatic therapies as determined by the committee, may acquire a certificate of certification without satisfying either the education or examination requirement of section 8 of this act.

#### **45:11–62. Fees**

A fee to be determined by the committee shall accompany each application for certification. Certificates of certification shall expire biennially and may be renewed upon submission of a renewal application provided by the board and payment of a fee. If the renewal fee is not paid by that date, the certificate of certification shall automatically expire, but may be renewed within two years of its expiration date on payment to the board of a sum determined by the committee for each year or part thereof during which the certificate of certification was expired and an additional restoration fee. After a two-year period, a certificate of certification may only be renewed by complying with the provisions of this act regarding initial certification.

#### **45:11–63. Issuance of certification**

The committee shall issue a certificate of certification to each applicant for certification as a massage, bodywork and somatic therapist who qualifies pursuant to this act and any rules and regulations promulgated by the board and who is not disqualified for certification pursuant to the provisions of P.L.1978, c. 73 (C.45:1–14 et seq.).

#### **45:11–64. Certification of person licensed in another state**

Upon payment to the board of a fee and the submission of a written application on forms provided by it, the committee shall issue without examination a certificate of certification to a massage, bodywork and somatic therapist who holds a valid license or certification issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of this act; provided, however, that the applicant has not previously failed any examination referred to in section 8 of this act that is approved by the committee, in which case the granting of certification shall be at the discretion of the committee.

#### **45:11–65. Prohibition; rendering certain services**

Nothing in this act shall be construed to prohibit any person from rendering massage, bodywork and somatic therapy services, provided that person shall not be identified by the titles “massage, bodywork and somatic therapist,” “registered massage, bodywork and somatic therapist,” “certified massage, bodywork and somatic therapist,” “certified massage therapist,” or the abbreviations “MBT,” “RMBT,” “CMBT,” “COBT,” “CMT” unless certified under the provisions of this act.

#### **45:11–66. Use of certain titles**

Any person who holds a certificate of certification as a massage, bodywork and somatic therapist pursuant to this act may use the title “massage, bodywork and somatic therapist” or “certified mas-



sage, bodywork and somatic therapist” or the abbreviations “MBT,” “CMBT,” “COBT,” or “CMT.” Every holder of a certificate of certification shall display it in a conspicuous place in his principal office, place of business or employment.

#### **45:11–67. Rules and regulations**

15. The board, after consultation with the committee, shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.) necessary to effectuate the purposes of this act.

## **ADMINISTRATIVE CODE**

### **CHAPTER 37 NJ BOARD OF NURSING**

#### **Subchapter 1. Programs in Nursing Education**

#### **13:37–1.1 Eligibility for accreditation**

- (a) For purposes of this subchapter, the term “accreditation” shall include the accreditation of professional nursing programs and the approval of practical nursing programs.
- (b) The following educational institutions are eligible for accreditation to provide nursing programs:
  - 1. A school, division or department of nursing authorized to operate by its own charter, articles of incorporation or resolution of the governing board of its sponsoring institution; or
  - 2. Degree granting institutions licensed by the New Jersey Commission on Higher Education and accredited by a regional accrediting agency recognized by the United States Department of Education.
- (c) The following educational programs, when offered by an institution that meets the requirements of (b) above, shall be considered eligible for accreditation by the Board as nursing programs:
  - 1. Generic doctoral degree programs: For purposes of this subchapter, a generic doctoral degree program means a program conducted by an educational institution with a program in nursing, which leads to a doctoral degree in nursing. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting doctoral degrees;
  - 2. Generic masters degree programs: For purposes of this subchapter, a generic masters degree program means a program conducted by an educational institution with a program in nursing, which leads to a masters degree in nursing. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting masters degrees;
  - 3. Baccalaureate degree programs: For purposes of this subchapter, a baccalaureate degree program is a program conducted by an educational institution with a program in nursing, which leads to a baccalaureate degree in nursing. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting baccalaureate degrees. Registered professional nurse completion programs, which are educational programs that provide licensed registered nurses who do not have a baccalaureate degree the opportunity to complete their baccalaureate degrees, shall be considered baccalaureate degree programs.

4. Associate degree programs: For purposes of this subchapter, an associate degree program means a program conducted by an educational institution with a program which leads to an associate degree in nursing. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting associate degrees;
5. Diploma programs: For purposes of this subchapter, a diploma program means a program conducted by a nursing school under the sponsorship of a hospital or consortium of hospitals in the State of New Jersey, that leads to a diploma in nursing or, in collaboration with a college or university, grants an Associate in Applied Science degree or Associate in Science degree; and
6. Practical nursing programs: For purposes of this subchapter, a practical nursing program means a program conducted for the purposes of providing education in practical nursing, that leads to a diploma or certificate in practical nursing, and which is not operated by any local, county or State Board of Education in this State. A practical nursing program that is operated by a board of education is not under the jurisdiction of the Board pursuant to N.J.S.A. 45:11–24 and is not required to meet the requirements of this subchapter.

### **13:37–1.2 Application for establishment of a new program in nursing**

- (a) An educational institution seeking to establish a new program in nursing shall submit in writing to the Board an application consisting of the following items:
  1. The type of program, for example, generic doctoral degree program or baccalaureate degree program;
  2. The philosophy, organizing framework, objectives and outcomes of the program in accordance with N.J.A.C. 13:37–1.5;
  3. Evidence of financial resources adequate for the planning, implementation and continuation of the program, including a projected fiveyear budget;
  4. A table of organization describing the lines of authority and the administrative structure of the program;
  5. Curricula vitae for all faculty and consultants responsible for the development and administration of the program; and
  6. A letter from the chief executive officer which reflects that he or she has secured initial and continued financial support for the program.
- (b) An application to establish a new program in nursing shall be submitted to the Board no later than eight months prior to the proposed establishment of a new program.
- (c) After reviewing the application, the Board shall either:
  1. Grant permission to pursue the development of the proposed program. However, such permission does not ensure that provisional accreditation will be granted by the Board;
  2. Require revisions to the proposed program or to the materials submitted as required by (a) above or the submission of additional information. Revisions to the proposed program or to the application materials does not ensure that provisional accreditation will be granted by the Board; or
  3. Deny permission to establish a new program.

- (d) The educational institution may request in writing an appearance before the Board for reconsideration of the revisions or denial based upon ©2 or 3 above within 30 days of written notification of the required revisions or denial.
- (e) After receiving permission to pursue the development of a new program, the educational institution shall submit to the Board the following items no later than four months prior to the anticipated start date of the program:
  - 1. The number of students to be admitted to each of the first four classes after establishment of the program;
  - 2. The projected maximum student enrollment;
  - 3. Admission, progression, retention and dismissal policies;
  - 4. Appeals policy for any disciplinary matter;
  - 5. A description of student services;
  - 6. A plan for increases in faculty commensurate with increased student enrollment;
  - 7. The curriculum plan, including course objectives for all nursing courses;
  - 8. A written statement describing the support staff; and
  - 9. A written Systematic Plan for Program Evaluation of the effectiveness of the curriculum. The Plan shall identify the communities of interest, which include any person or group who is interested in the quality of graduates from a nursing program, and shall include:
    - i. The components being evaluated;
    - ii. The responsible party for evaluating the components;
    - iii. Outcomes that reflect program objectives;
    - iv. Methods for evaluating components; and
    - v. Actions resulting from the collection and analysis of data.
- (f) After reviewing the materials required by (e) above, the Board shall either:
  - 1. Grant provisional accreditation to the program;
  - 2. Require revisions to the program or the program materials required by (e) above or the submission of additional information. Revisions to the program or program materials do not ensure that provisional accreditation will be granted by the Board; or
  - 3. Deny permission to establish a new program.
- (g) The educational institution may request, in writing, an appearance before the Board for reconsideration of the revisions or denial based upon (f)2 or 3 above within 30 days of written notification of the required revisions or denial.

### **13:37–1.3 Provisional accreditation**

- (a) A nursing program that has been granted provisional accreditation pursuant to N.J.A.C. 13:37–1.2 may admit students.

- (b) A nursing program that has been granted provisional accreditation shall not be granted accreditation until:
  - 1. The first class has graduated;
  - 2. Eighty percent of students from the first graduating class, who have taken the licensing examination, pass the first time they take it; and
  - 3. A self-study report is submitted to the Board that shows the nursing program is in compliance with the requirements of N.J.A.C. 13:37–1.4 through 1.11.
- (c) A registered professional nurse completion program, as defined in N.J.A.C. 13:37–1.1(b)3, shall be granted accreditation once it has graduated its first class and has submitted a self-study report to the Board.
- (d) The Board may conduct a survey of the program, through its designee, to assure compliance with N.J.A.C. 13:37–1.4 through 1.11.
- (e) A program that does not meet the requirements of (b) above shall remain on provisional accreditation status. A program may remain on provisional accreditation status for no more than two years from the date the first class graduates. A program that has not met the requirements of (b) above in that two-year period shall cease to admit students and shall be placed on probation until the last student enrolled in the program graduates or otherwise leaves the program. Once the last student has left the program, the program shall lose its provisional accreditation. A program that has lost provisional accreditation pursuant to this subsection may reapply for accreditation pursuant to N.J.A.C. 13:37–1.2.
- (f) A program, or an institution that offers a program, that does not provide its students an opportunity to complete their education and graduate as required by (e) above, may not reapply for accreditation for 10 years from the date the program ended.

#### **13:37–1.4 Maintaining accreditation: organization and administration of a nursing program**

- (a) A nursing program shall have:
  - 1. A written organizational and administrative plan describing the internal organization of the program, lines of authority, procedures for providing communication with the governing body and clinical agencies, and the role of any advisory committee associated with the program;
  - 2. Stable financial resources which are allocated to adequately support the program’s educational activities;
  - 3. A program administrator who meets the requirements of N.J.A.C. 13:37–1.6 and has direct authority for the fiscal and academic administration of the program. The administrator shall be responsible to the governing body of the sponsoring institution;
  - 4. Written criteria for faculty promotion and faculty retention;
  - 5. Written criteria for student admission, promotion, retention, and completion of the program; and
  - 6. Written policies on grading and graduation requirements.

### **13:37–1.5 Maintaining accreditation: philosophy, organizing framework, objectives and outcomes**

- (a) The faculty shall develop, and revise as necessary, a statement of philosophy, a written description or model of the organizing framework, program objectives and program outcomes which are consistent with the definition of nursing as set forth in N.J.S.A. 45:11–23(b).
- (b) The philosophy of the nursing program shall include the faculty's beliefs about the following:
  - 1. Nursing;
  - 2. Humans;
  - 3. Health;
  - 4. Environment; and
  - 5. The teaching-learning process.
- (c) The nursing program objectives shall identify those competencies required for the successful entry of the nursing graduate into practice.
- (d) The faculty shall develop and maintain the written Systematic Plan for Program Evaluation.
- (e) The faculty shall be able to show that the philosophy, organizing framework, program objectives and program outcomes have been integrated into the total program of learning.
- (f) The philosophy, organizing framework, program objectives and program outcomes shall be communicated to students, cooperating affiliates, advisory committees and communities of interest as outlined in the Systematic Plan for Program Evaluation.
- (g) If the faculty determines that the nursing program needs admission requirements in addition to those required by the institution, the faculty shall develop those additional requirements.
- (h) The faculty shall develop any additional policies on grading or educational requirements for graduation which the faculty deems necessary.
- (i) The faculty, in collaboration with the program administrator, shall construct, implement, teach and evaluate the curriculum. The administrator shall maintain records that indicate the curriculum has been evaluated pursuant to the Systematic Plan for Program Evaluation.

### **13:37–1.6 Maintaining accreditation; qualifications of program administrators**

- (a) Every nursing program shall have a program administrator.
- (b) An administrator of a generic doctoral degree program, a generic masters degree program, or a baccalaureate degree program shall, in addition to the qualifications contained in N.J.A.C. 13:37–1.7, hold a doctoral degree in nursing or a masters degree in nursing with an earned doctoral degree.
- (c) An administrator of an associate degree program or a diploma program shall, in addition to the qualifications contained in N.J.A.C. 13:37–1.7, hold a masters degree in nursing.
- (d) An administrator of a practical nursing program shall, in addition to the requirements of N.J.A.C. 13:37–1.7, hold a masters degree in nursing. An administrator for a practical nursing program who began his or her employment prior to (the effective date of these rules) shall not be required to hold a masters degree in nursing but shall be required to hold a bachelors degree in nursing with additional courses in the field of education.

- (e) If an administrator of a nursing program is replaced, for any reason, the program shall notify the Board in writing within 30 days of the change.

### **13:37–1.7 Maintaining accreditation: faculty qualifications**

- (a) For purposes of this subchapter, the term “faculty” shall include fulltime and part-time teachers as well as individuals who are responsible for teaching students in a clinical agency located in New Jersey.
- (b) Faculty members shall:
  - 1. Have current licensure in New Jersey as a registered professional nurse;
  - 2. Have documentation that shows that the nurse has taken courses in, or has professional or clinical experience in, the specific area of teaching responsibility;
  - 3. For faculty in baccalaureate degree programs, associate degree programs and diploma programs who began their current employment position after September 1, 1981, have graduated from a masters degree program with a major in nursing; and
  - 4. For faculty in licensed practical nursing programs who began their current employment position after September 1, 1981, hold a bachelors degree with a major in nursing.
- (c) The educational institution shall maintain on file a record of professional preparation and experience for all faculty.
- (d) Faculty shall develop an individual plan to maintain competency in the theoretical and practice areas directly related to their area of teaching responsibility. These plans shall be approved by the program administrator.
- (e) Faculty members shall supervise no more than 10 students in a clinical setting.

### **13:37–1.8 Maintaining accreditation: curriculum organization and content**

- (a) The curriculum of all nursing education programs shall enable students to develop the knowledge, skills and competencies necessary for the level of nursing practice as defined in N.J.S.A. 45:11–23 et seq.
- (b) Nursing courses shall only be taught by nursing faculty, except that nutrition courses may be taught by a dietitian with a masters degree in nutrition and pharmacology courses may be taught by a licensed pharmacist with a masters degree in pharmacology.
- (c) The nursing curriculum shall be based on the philosophy, organizing framework, program objectives and program outcomes that the faculty have developed pursuant to N.J.A.C. 13:37–1.5.
- (d) Faculty shall select clinical experiences for students that correlate with course objectives and/or competencies.
- (e) All nursing courses and clinical experiences shall reflect participation by the community of interest which has been identified in the Systematic Plan for Program Evaluation required by N.J.A.C. 13:37–1.2(e).
- (f) The nursing curriculum of all professional nursing education programs shall include:
  - 1. Content in the sciences, social sciences and humanities; and
  - 2. Nursing courses and clinical experiences in a variety of settings that include:

- i. The promotion, restoration and maintenance of health across the lifespan;
- ii. Critical thinking;
- iii. The nursing practice act, N.J.S.A. 45:11–23 et seq., and Board rules, N.J.A.C. 13:37;
- iv. Legal and ethical issues;
- v. Cultural implications for practice;
- vi. The structure and economics of the health care delivery system;
- vii. Delegation to, and supervision of, licensed practical nurses and unlicensed assistive personnel;
- viii. Management and leadership;
- ix. Interdisciplinary collaboration;
- x. Pain management and end of life issues; and
- xi. Socialization to the role of the professional nurse.

(g) The curriculum of a practical nursing education program shall:

- 1. Include content in the sciences and social sciences;
- 2. Contain nursing courses and clinical experiences that include:
  - i. The provision of supportive and restorative care under the direction of a registered professional nurse;
  - ii. Critical thinking;
  - iii. The nursing practice act, N.J.S.A. 45:11–23 et seq., and Board rules, N.J.A.C. 13:37;
  - iv. Legal and ethical issues affecting licensed practical nursing practice and responsibilities;
  - v. Delegation from a registered professional nurse pursuant to N.J.A.C. 13:37–6.2, and delegation from a licensed physician or licensed dentist;
  - vi. Cultural implications of practice;
  - vii. Pain management and end of life issues; and
  - viii. Interdisciplinary collaboration at the level of practice of the licensed practical nurse;
- 3. Be at least 44 weeks long, excluding holidays and vacations;
- 4. Offer theory and clinical experience concurrently throughout the entire program; and
- 5. Equally distribute time between theoretical and clinical work.

### **13:37–1.9 Maintaining accreditation: required educational and administrative resources**

(a) The nursing education program shall provide:

- 1. Classrooms and laboratories to meet the needs of the students and faculty;
- 2. Office space, conference rooms and equipment for the administrator, faculty and clerical staff;
- 3. Furnishings, supplies and equipment to achieve the program’s objectives and outcomes; and
- 4. Access to current reference resources.

**13:37–1.10 Maintaining accreditation; clinical agencies**

- (a) Every nursing program shall provide clinical experiences through an affiliation with a clinical agency or agencies that are licensed by a governmental agency or accredited by a nationally recognized accrediting body.
- (b) There shall be a written agreement between the nursing program and the clinical agency. The agreement shall be signed and adhered to by the parties and shall include provisions for:
  - 1. Review of the terms of the agreement;
  - 2. Notice of termination of the agreement by either party at least 120 days prior to termination;
  - 3. Faculty responsibility for student education;
  - 4. Collaboration between faculty and clinical agency personnel in selecting clinical experiences;
  - 5. Joint annual evaluation of the effectiveness of the clinical experience, with input from students; and
  - 6. A faculty to student ratio of at least one faculty member for every 10 students.
- (c) Clinical agencies located outside the State of New Jersey shall meet the requirements established by the state board of nursing in that other state.

**13:37–1.11 Maintaining accreditation: criteria for student admission, promotion and completion of the program**

- (a) Every nursing program shall:
  - 1. Have written policies for admission, readmission, promotion, graduation and transfer of students;
  - 2. Have written criteria for granting course credit for programs admitting students with advanced standing;
  - 3. Have written policies governing payment and refund of tuition and other fees;
  - 4. Set dates for the beginning and ending of each term;
  - 5. Establish and make available to students an appeals process;
  - 6. Require individual liability insurance for each student;
  - 7. Establish and distribute to students written policies regarding health and guidance services;
  - 8. Distribute information about the school to students and applicants for admission which shall include:
    - i. A general description of the program;
    - ii. The accreditation status of the program with the Board;
    - iii. The name and address of any organization the program is accredited by;
    - iv. Admission, promotion and graduation requirements;
    - v. Curriculum plan and course descriptions;
    - vi. Statement of tuition fees and refund policies;



- vii. An appeals process; and
- viii. The address and telephone number of the Board; and
- 9. Inform the students and applicants for admission that complaints regarding the program may be sent to the Board.

### **13:37–1.12 Maintaining accreditation: surveys of nursing programs**

- (a) The Board may conduct a survey of any program at any time in order to ensure compliance with the requirements of this subchapter. A survey shall consist of an on-site visit and an evaluation of all program documents required by N.J.A.C. 13:37–1.4 through 1.11. If the survey indicates that a program is not in compliance with this subchapter, the Board shall place the program on conditional accreditation pursuant to N.J.A.C. 13:37–1.17.
- (b) The Board shall conduct a survey and an on-site visit for every accredited nursing program every eight years pursuant to N.J.A.C. 13:37–1.13 unless the on-site visit is waived pursuant to N.J.A.C. 13:37–1.14.

### **13:37–1.13 Renewing accreditation**

- (a) Certificates of accreditation issued by the Board prior to April 21, 2003 shall expire five years from the date of issue or last renewal. Programs holding such certificates shall renew accreditation pursuant to (b) through (e) below.
- (b) A program shall be accredited for eight years. Prior to the expiration of the accreditation period, the Board shall send to the nursing program an accreditation renewal form and notification of date for an on-site visit. The form shall be sent to the program 90 days prior to the scheduled date of the on-site visit.
- (c) A program that meets the requirements of N.J.A.C. 13:37–1.14 may request a waiver of the on-site visit. If the Board grants the waiver, the program shall submit to the Board:
  - 1. The completed accreditation renewal form; and
  - 2. The accreditation renewal fee required by N.J.A.C. 13:37–5.5(d)3.
- (d) If a program does not apply or qualify for a waiver of the on-site visit, the program administrator shall submit to the Board, 30 days prior to the scheduled date of the on-site visit, the following:
  - 1. The completed accreditation renewal form;
  - 2. The most recent institutional regional accreditation report;
  - 3. The nursing student handbook;
  - 4. Course outlines for all nursing courses;
  - 5. Description and location of clinical facilities;
  - 6. The Systematic Plan for Program Evaluation;
  - 7. The program's bylaws;
  - 8. The program's organizational chart;
  - 9. The program's insurance policy;

10. A list of the nursing journals subscribed to by the program's library; and

11. The renewal fee required by N.J.A.C. 13:37–5.5(d)2.

(e) After the Board has reviewed the renewal form and the results of the on-site visit, the Board shall decide whether the program conforms to the rules of this subchapter and whether to renew the program's accreditation. The Board shall either send the program written notice that its accreditation has been renewed or a notice that accreditation has not been renewed and that the program is being placed on conditional accreditation pursuant to N.J.A.C. 13:37–1.17.

#### **13:37–1.14 Waiver of on-site visits for accreditation renewal**

(a) The on-site visit required pursuant to N.J.A.C. 13:37–1.12(b) and 1.13 may be waived if the program requests a waiver of the site visit in writing. The waiver request shall include:

1. Documentation that the nursing program is accredited by either the National League for Nursing Accrediting Commission (NLNAC) or the Commission on Collegiate Nursing Education (CCNE);
2. A self-study by the nursing program which evaluates its compliance with the accreditation standards of the Board and either the NLNAC or CCNE;
3. The site survey report from either the NLNAC or CCNE that has reviewed and evaluated the program; and
4. The final report from either the NLNAC or CCNE.

(b) A program that has been granted a waiver of the on-site visit pursuant to (a) above shall notify the Board within 30 days of the change if the NLNAC or CCNE accreditation status changes.

(c) If the Board is notified that a program's NLNAC or CCNE accreditation status has changed, the Board shall send a representative to conduct an on-site visit of the program to verify that the program conforms to the rules of this subchapter. A program that does not conform to the rules of this subchapter shall be placed on conditional accreditation pursuant to N.J.A.C. 13:37–1.17.

#### **13:37–1.15 Maintaining accreditation: program recordkeeping and reporting requirements**

(a) Any record that a nursing program maintains pursuant to the requirements of this subchapter shall be made available to the Board upon request.

(b) Every nursing program shall maintain a record of nursing department committee minutes for a minimum of three years.

(c) Every nursing program shall ensure that records are maintained so that such records provide accurate recording of student academic data. Records shall be stored in a manner to prevent loss by destruction and unauthorized use.

(d) A copy of the current contracts with clinical agencies shall be maintained by the administrator.

(e) An annual report of the school of nursing shall be submitted each year to the Board on forms supplied by the Board.

#### **13:37–1.16 Changes to a nursing program**

(a) A nursing program shall notify the Board 30 days prior to any changes in ownership or the program's dean, director, chair or program administrator.

(b) A nursing program shall not institute a major curriculum change, as outlined in (d) below,

without prior Board approval.

- (c) A nursing program that wishes to make any major curriculum changes shall submit the requested change to the Board in writing and provide the information required in (e) below. The Board shall review the request to determine whether the requested change is in compliance with this subchapter.
- (d) Major curriculum changes are:
  - 1. Changes in the philosophy or organizing framework;
  - 2. Reorganization of the credit allocation within the program;
  - 3. An increase or decrease in the number of required credits; or
  - 4. An increase or decrease in the length of the nursing program.
- (e) A request for a change in the curriculum shall include:
  - 1. The rationale for the proposed change in the curriculum;
  - 2. A presentation of the differences between the current status of the program and the proposed change;
  - 3. A timetable for implementation of the change; and
  - 4. A plan for the evaluation of the change which shall include outcomes.
- (f) After reviewing the request the Board shall:
  - 1. Grant approval of the curriculum change;
  - 2. Require revisions to the request. If the Board requires a revision, the nursing program shall submit the revised request within 30 days of receiving notification; or
  - 3. Deny approval for the curriculum change.
- (g) The nursing program may, within 30 days of notification of the denial, request in writing an appearance before the Board asking for a reconsideration of the denial of the curriculum change.
- (h) If the Board denies a curriculum change, the nursing program may not resubmit another request for the same curriculum change for six months from the date of notification of the denial.

### **13:37–1.17 Conditional accreditation**

- (a) The Board shall place an accredited program on conditional accreditation if:
  - 1. The program fails to meet or maintain the standards and requirements for accreditation contained in this subchapter; or
  - 2. Less than 80 percent of its graduates achieve passing grades in the licensing examination.
- (b) The Board may limit the number of students enrolled in a program placed on conditional accreditation. The institution shall be given the opportunity for a hearing to appeal this decision.
- (c) The program shall be notified by letter of conditional accreditation by the Board including any conditions which must be corrected within a specific time period established by the Board.
- (d) The Board may, upon request, remove a program from conditional accreditation if it can be

demonstrated that the standards and requirements contained in this subchapter have been met.

### **13:37–1.18 Probation**

A program may be placed on probation when its graduates fail to achieve 80 percent passing on the licensing examinations for two consecutive years. A program placed on probation shall not admit new or transfer students into the program. The institution shall be given the opportunity for a hearing to appeal this decision.

### **13:37–1.19 Program termination**

- (a) Programs that voluntarily terminate shall provide for their enrolled students by either:
  - 1. Phasing out the students. The students enrolled may continue with their studies until they complete the program; no new students may be admitted or accepted by transfer; qualified faculty remain with the program and compliance with this subchapter continues; or
  - 2. Transference of students to other schools.
- (b) The eligibility of students enrolled in a program to sit for the licensing examination shall not be affected in the event a program terminates.
- (c) The individual responsible for an educational institution or hospital, which plans to terminate a program in nursing or to suspend any essential part of its program, shall so advise the Board in writing. The written notification shall include the reasons for terminating the program and the specific plans for students enrolled.
- (d) Programs that voluntarily terminate or which terminate due to loss of accreditation shall provide for safekeeping of records. The program shall notify the Board of the name, address and telephone number of the site where records are to be stored at least ten days prior to the date of termination. The date of termination shall be the date on which the last student is properly transferred or completes the program.

## **SUBCHAPTER 2. LICENSURE BY EXAMINATION; REGISTERED PROFESSIONAL AND LICENSED PRACTICAL NURSES**

### **13:37–2.1 Eligibility requirements**

- (a) Every applicant for licensure as a registered professional nurse or a licensed practical nurse shall meet the requirements for licensure, as set forth in N.J.S.A. 45:1–14 et seq., N.J.S.A. 45:11–26 and 27. Every applicant shall pass either the National Council Licensure Examination for Registered Nurses (NCLEX–RN) or the National Council Licensure Examination for Practical Nurses (NCLEX–PN).
- (b) An applicant who fails to pass three consecutive licensing examinations shall submit to the Board, prior to the fourth licensing examination, proof of successful completion of a remediation course, consisting of 30 hours and conducted by a qualified instructor within the meaning of N.J.A.C. 13:37–1.10. The remediation course shall be completed within one year prior to taking the fourth examination. An applicant who fails the fourth examination may retake the examination two more times before being required to take the remediation course again.

### **13:37–2.2 Application requirements; professional and practical nurses**

- (a) Each applicant for licensure shall file with the Board:
  - 1. A completed application form, provided by the Board, which requests information concerning the applicant's educational and experiential background;
  - 2. The nonrefundable application fee set forth in N.J.A.C. 13:37–5.5(a)1; and
  - 3. A written certification from the registrar, or program administrator authorized by the registrar, attesting that the applicant has successfully completed all requirements for graduation from a Board-accredited registered professional nursing program or a Board-accredited licensed practical nursing program. The certification shall indicate the date of graduation or the date the degree or diploma was conferred.
- (b) An applicant for licensure as a licensed practical nurse shall complete a program designed to educate him or her as a licensed practical nurse. Attendance in or successful completion of a registered professional nursing program shall not serve as an equivalent for the licensed practical nursing educational requirement.

### **13:37–2.3 Application requirements; graduates of foreign nursing programs**

- (a) An applicant for licensure who graduated from a foreign nursing program shall submit:
  - 1. The documents required in N.J.A.C. 13:37–2.2(a)1 and 2;
  - 2. For registered professional nurse applicants, a valid certification by the Commission on Graduates of Foreign Nursing Schools (CGFNS);
  - 3. For licensed practical nurse applicants, a certification by a foreign transcript evaluating service and a passing score on the Test of English as a Foreign Language exam, TOEFL; and
  - 4. A CGFNS certificate indicating graduation from a nursing program or licensure as a registered nurse in the foreign country.
- (b) A graduate of a foreign licensed practical nursing program who has not taken courses in medical, surgical, pediatric, obstetric or psychiatric nursing shall complete a course in a licensed practical nursing program in the area(s) of deficiency offered by a practical nursing education program approved by the State Department of Education or by the Board pursuant to N.J.A.C. 13:37–1.
- (c) Any applicant who obtained his or her credentials, such as transcripts, licenses or certificates, through fraud, deception, misrepresentation, false promise or false pretense shall not be eligible to take the examination or for licensure.

### **13:37–2.4 Forensic nurse sexual assault examiner; training requirements**

A registered nurse licensed by the Board or a nurse practitioner/clinical nurse specialist certified by the Board who wishes to qualify as a forensic nurse sexual assault examiner pursuant to the provisions of P.L. 1995, c.187, shall successfully complete a comprehensive course in clinical forensics focusing on the various aspects of conducting an examination and physical assessment of the sexual assault victim as well as on recognizing, collecting and documenting evidence, which course shall be approved or conducted by the Monmouth County Prosecutor's Office.

## SUBCHAPTER 3. (RESERVED)

## SUBCHAPTER 4. LICENSURE BY ENDORSEMENT; PROFESSIONAL AND PRACTICAL NURSES

### **13:37–4.1 Eligibility requirements**

- (a) Each applicant for licensure by endorsement shall:
  - 1. Meet all of the qualifications for the type of licensure sought, as set forth in N.J.S.A. 45:1–14 et seq., 45:11–23 et seq. and this chapter;
  - 2. Be licensed by examination in a jurisdiction which is a member of the National Council of State Boards of Nursing; and
  - 3. Have attained a passing score on the licensing examination consistent with the provisions of N.J.A.C. 13:37–4.2 and 4.3.
- (b) Attendance in or successful completion of a professional nursing program shall not serve as an equivalent or substituted qualification for the practical nursing educational requirement.
- (c) An applicant who is deficient in the required curriculum content set forth in N.J.A.C. 13:37–1.13 or who fails to provide written verification of licensure in good standing from the state of original licensure and from the state in which the applicant is currently licensed shall not be eligible for licensure by endorsement.
- (d) Any applicant who obtains his or her credentials (for example, transcripts, licensure) through fraud, deception, misrepresentation, false promise or false pretense shall not be eligible to be licensed.

### **13:37–4.2 Examination scores; professional nurses**

- (a) Applicants for professional nurse licensure by endorsement shall be required to have attained a passing score on the licensing examination as follows:
  - 1. If licensed prior to March 1954, the passing score required in the state of original licensure.
  - 2. If licensed between March 1954 and July 1982, the passing score required in New Jersey in all subjects of State Board Test Pool Examination.
  - 3. If licensed after July 1982, the score required for all applicants for licensure by NCLEX–RN.
- (b) Applicants for practical nurse licensure by endorsement shall be required to have attained a passing score on the licensure examination as follows:
  - 1. If licensed prior to January 1, 1949, the passing score required in the state of original licensure.
  - 2. If licensed between January 1, 1949 and December 31, 1960, a score of 350.
  - 3. If licensed after January 1, 1961, a score of 375 on the State Board Test Pool Examination.
  - 4. If licensed after October 1982, a score of 350 on the NCLEX–PN.
  - 5. If licensed after October 1989, a “pass” score on the NCLEX–PN.

### **13:37–4.3 Application requirements; licensure by endorsement**

- (a) Each applicant for licensure by endorsement shall submit or arrange to submit the following to the Board:
  - 1. All of the documents required in N.J.A.C. 13:37–2.3;
  - 2. An initial license fee and application for licensure by endorsement fee as set forth in N.J.A.C. 13:37–5.8(a)2 and 3; and
  - 3. Written verification of licensure in good standing from the state in which the applicant was originally licensed and from the state in which the applicant is currently licensed. The verification shall be forwarded directly to the Board from the applicable state board. The verification from the state of original licensure shall indicate that the applicant attained a passing score on the national licensing examination equal to that required of candidates in New Jersey at the time of the applicant’s initial licensure in the original state of licensure.
- (b) Where the state of original licensure did not utilize the examinations referred to in this subsection or the applicant otherwise fails to attain a passing score, the applicant shall be required to apply for licensure by examination pursuant to N.J.A.C. 13:37–2.

## **SUBCHAPTER 5. GENERAL REQUIREMENTS OF LICENSURE; LICENSE RENEWAL; FEE SCHEDULE**

### **13:37–5.1 License requirement**

Before engaging in nursing practice, as defined in N.J.S.A. 45:11–23(b), or representing oneself as a nurse, an individual shall obtain and maintain a current license that is active. No licensee shall engage in nursing practice if his or her license is expired, suspended, revoked or surrendered.

### **13:37–5.2 Biennial license renewal**

Licenses shall be valid for two calendar years, except that initial licenses shall be valid from the date the applicant passed the examination to the end of the then current biennial period.

### **13:37–5.3 (Reserved)**

### **13:37–5.4 Categories of licenses**

Licenses shall be divided into two categories known as “active” and “inactive” licenses. All persons engaged in any type of nursing practice shall have an active license. An individual who is eligible for an active license but who is not engaged in any type of nursing practice may request an inactive license. Before engaging in nursing practice, a holder of an inactive license shall register with the Board as active and pay the active biennial license fee as set forth at N.J.A.C. 13:37–5.5(a).

### **13:37–5.5 Fee schedule**

- (a) The following fees shall be charged by the Board in connection with licensure of professional and practical nurses:
  - 1. Application fee ..... \$75.00
  - 2. Initial license fee ..... \$65.00
  - 3. Application for licensure by endorsement ..... \$75.00 plus

\$65.00 initial license fee  
set forth in (a)2 above

4. Verification for endorsement ..... \$30.00
  5. Renewal of license (biennial)
    - i. Active ..... \$65.00
    - ii. Inactive ..... \$30.00
  6. Late license renewal (one to 30 days) ..... \$50.00 plus  
the applicable biennial license renewal fee set forth in (a)5 above
  7. Lapsed license fee (after 30 days) ..... \$100.00 plus  
the applicable biennial license renewal fee set forth in (a)5 above
  8. Duplicate license ..... \$35.00
  9. Written verification of licensure ..... \$25.00
  10. Copy of Nurse Practice ..... \$5.00
  11. Copy of L.P.N. Standards of Practice ..... \$3.00
- (b) The following fees shall be charged by the Board in connection with certification of homemaker-home health aides:
1. Application fee ..... \$50.00
  2. Program approval fee for each location at which course is offered(annual) ..... \$250.00
  3. Instructor's Manual ..... \$25.00
  4. Student Manual ..... \$15.00
  5. Initial certification fee
    - i. If paid during the first year of a biennial renewal period ..... \$20.00
    - ii. If paid during the second year of a biennial renewal period ..... \$10.00
  6. Renewal of certificate (biennial) ..... \$20.00
  7. Late renewal of certificate (one to 30 days) ..... \$10.00  
plus the certification renewal fee set forth in (b)6 above
  8. Lapsed certification fee (after 30 days) ..... \$20.00 plus  
the certification renewal fee set forth in (b)6 above
  9. Duplicate certificate ..... \$10.00
  10. Application for certification by endorsement ..... \$30.00 plus  
the applicable initial certification fee set forth in (b)5 above
- (c) The following fees shall be charged by the Board in connection with certification of nurse practitioners/clinical nurse specialists:



1. Application fee ..... \$100.00
  2. Initial certification fee
    - i. If paid during the first year of a biennial renewal period ..... \$100.00
    - ii. If paid during the second year of a biennial renewal period ..... \$50.00
  3. Renewal of certification (biennial) ..... \$100.00
  4. Application for certification by endorsement ..... \$ 1 0 0 . 0 0  
plus the applicable initial certification fee set forth in C 2 above
  5. Late renewal of certificate (one to 30 days) ..... \$75.00 plus  
the certification renewal fee set forth in (c) 3 above
  6. Lapsed certification fee (after 30 days) ..... \$ 1 0 0 . 0 0  
plus the certification renewal fee set forth in c 3 above
  7. Duplicate certificate ..... \$35.00
- (d) The following fees shall be charged by the Board in connection with accreditation of nursing programs:
1. Initial accreditation application ..... \$1,000
  2. Renewal of accreditation without waiver ..... \$1,000
  3. Renewal of accreditation with waiver ..... \$400.00

### **13:37–5.6 Responsibilities of licensure**

A licensee shall be held to the level of practice associated with his or her licensure, either as a registered professional nurse or licensed practical nurse, regardless of his or her employment status. For example, when a registered professional nurse is employed as a licensed practical nurse, he or she will be held to the standards of a registered professional nurse.

### **13:37–5.7 Notification of change of address**

A licensee or certificant shall notify the Board in writing of any change of address from that registered with the Board and shown on the most recently issued license or certificate. Such notice shall be given no later than 30 days following the change of address. Service to the address registered with the Board shall constitute effective notice pursuant to N.J.A.C. 13:45–3.2.

### **13:37–5.8 Reporting of unlawful conduct**

A licensee or certificant shall report to the Board any incident or series of incidents which the licensee or certificant, in good faith, believes is in violation of the Nurse Practice Act, N.J.S.A. 45:11–23, this chapter or N.J.A.C. 13:45C.

### **13:37–5.9 Self-reporting**

- (a) A licensee or certificant shall immediately notify the Board if he or she:
1. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
  2. Is indicted or convicted of a crime involving moral turpitude or a crime adversely relating to his or her practice;

3. Is named as a defendant or respondent in a civil, criminal or administrative investigation, complaint or judgment involving alleged malpractice, negligence or misconduct relating to his or her practice;
  4. Is the subject of any voluntary license or certification surrender or any disciplinary action or order by any state or Federal agency, board or commission, including any order of limitation or preclusion; or
  5. Fails to maintain or renew any certification which is required by law as a condition of practice or as a condition of license or certification renewal.
- (b) Any nurse or homemaker-home health aid licensed or certified under the Nurse Practice Act, N.J.S.A. 45:11–23 et seq., who violates any provision of the Act or N.J.S.A. 45:1–14 et seq. may be subject to disciplinary action by the Board, provided that the Board notifies the licensee or certificant and provides an opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B–1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

## SUBCHAPTER 6. NURSING PROCEDURES

### **13:37–6.1 Nursing procedures**

Nursing procedures shall be determined by the Nursing Practice Act of this State, subject to the interpretation and revision by the Board of Nursing.

### **13:37–6.2 Delegation of selected nursing tasks**

- (a) The registered professional nurse is responsible for the nature and quality of all nursing care including the assessment of the nursing needs, the plan of nursing care, the implementation, and the monitoring and evaluation of the plan. The registered professional nurse may delegate selected nursing tasks in the implementation of the nursing regimen to licensed practical nurses and ancillary nursing personnel. Ancillary nursing personnel shall include but not be limited to: aides, assistants, attendants and technicians.
- (b) In delegating selected nursing tasks to licensed practical nurses or ancillary nursing personnel, the registered professional nurse shall be responsible for exercising that degree of judgment and knowledge reasonably expected to assure that a proper delegation has been made. A registered professional nurse may not delegate the performance of a nursing task to persons who have not been adequately prepared by verifiable training and education. No task may be delegated which is within the scope of nursing practice and requires:
  1. The substantial knowledge and skill derived from completion of a nursing education program and the specialized skill, judgment and knowledge of a registered nurse;
  2. An understanding of nursing principles necessary to recognize and manage complications which may result in harm to the health and safety of the patient.
- (c) The registered professional nurse shall be responsible for the proper supervision of licensed practical nurses and ancillary nursing personnel to whom such delegation is made. The degree of supervision exercised over licensed practical nurses and ancillary nursing personnel shall be determined by the registered professional nurse based on an evaluation of all factors including:
  1. The condition of the patient;
  2. The education, skill and training of the licensed practical nurse and ancillary nursing personnel

to whom delegation is being made;

3. The nature of the tasks and the activities being delegated;
  4. Supervision may require the direct continuing presence or the intermittent observation, direction and occasional physical presence of a registered professional nurse. In all cases, the registered professional nurse shall be available for on-site supervision.
- (d) A registered professional nurse shall not delegate the performance of a selected nursing task to any licensed practical nurse who does not hold a current valid license to practice nursing in the State of New Jersey. A registered professional nurse shall not delegate the performance of a selected nursing task to ancillary nursing personnel who have not received verifiable education and have not demonstrated the adequacy of their knowledge, skill and competency to perform the task being delegated.
- (e) Nothing contained in this rule is intended to limit the current scope of nursing practice.
- (f) Nothing contained in this rule shall limit the authority of a duly licensed physician acting in accordance with N.J.S.A. 45:9–1 et seq.

### **13:37–6.3 Standards for joint protocols between advanced practice nurses and collaborating physicians**

- (a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. “Collaboration” means the ongoing process by which an advanced practice nurse and a physician engage in practice, consistent with agreed upon parameters of their respective practices.

“Device” means an article, other than medication, for use in the diagnosis, cure, mitigation, treatment or prevention of disease, injury, pain or deformity or physical or emotional condition or health problem in humans or intended to affect the structure or function of the human body. “Joint protocol” means an agreement or contract between an advanced practice nurse and a collaborating physician which conforms to the standards established by the Director of the Division of Consumer Affairs pursuant to this rule.

“Medication” means any substance for which a prescription is required which is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease, injury, pain or deformity or physical or emotional condition or health problem in humans or intended to affect the structure or function of the human body.

- (b) Advanced practice nurses who seek to prescribe or order medications or devices and the collaborating physician(s) with whom they are in collaboration shall develop a joint protocol, which shall be:
1. In writing;
  2. Signed by both the advanced practice nurse and the physician, with an acknowledgment that any inappropriate professional behavior or violation of the protocol on the part of either the physician or the advanced practice nurse will be reported to his or her respective licensing board;
  3. Maintained on the premises of every office in which the advanced practice nurse practices;
  4. Updated on an ongoing basis to reflect changes in the practice, office personnel, skills of the

advanced practice nurse, frequency of record review, and reference materials containing practice guidelines or accepted standards of practice; and

5. Reviewed at least on an annual basis.

(c) The content of a joint protocol under (b) above shall address:

1. The nature of the practice, the patient population (for example, pediatric patients) and settings (for example, inpatient, nursing home, patient residences or other alternative care environments);
2. Any particular circumstances for which, prior to prescribing, a specific examination is to be performed or a definitive diagnosis made;
3. The recordkeeping methodology to be used in the practice (for example, the protocol might indicate that records should contain subjective complaints, objective findings, an assessment and a plan of treatment);
4. A list of categories of medications appropriate to the practice;
5. A delineation of specific medications and the specific number of refills, to be prescribed pursuant to the direction of the physician;
6. Specific requirements with respect to the recordation, in the patient record and/or in separate logs, of medications prescribed or dispensed, dosages, frequency, duration, instructions for use and authorizations for refills;
7. Any medical conditions or findings within the nature of the practice which should require direct consultation prior to the prescribing or ordering of medications or devices;
8. The frequency and methodology to be employed to ensure periodic review of patient records;
9. Identification of the means by which the advanced practice nurse and collaborating physician can be in direct communication, as well as a description of arrangements which will assure that the collaborating physician or peer coverage is accessible and available;
10. Procedures for the use of medications in emergency situations; and
11. Identification of reference materials containing practice guidelines or accepted standards of practice.

(d) Failure to establish and implement joint protocols consistent with the standards set forth in this section and any violation of the joint protocol by an advanced practice nurse or physician may be deemed professional misconduct or other grounds for disciplinary sanction within the meaning of N.J.S.A. 45:1–21 by his or her respective licensing board.

### **13:37–6.4 Identification tags**

- (a) Each licensee or certificate holder shall wear an identification tag when engaging in the practice for which the individual is licensed or certified. The identification tag shall be clearly visible at all times, and such tag shall bear the first name or initial, the full surname and the term reflecting the individual's level of licensure or certification, for example, Registered Nurse or R.N. The letters on the tag shall be of equal size in type, not smaller than one-quarter inch. The size of the identification tag shall be equal to or greater than that of any other identification worn by the licensee or certificate holder.

- (b) Where a general hospital requires a facility staff member who is a licensee or a certificate holder to wear an identifying badge pursuant to P.L. 1997, c.76 (N.J.S.A. 26:2H-12.8a), that staff member need only wear only one identification badge, as long as the badge meets requirements of both P.L. 1997, c.76 (N.J.S.A. 26:2H-12.8a) and (a) above.
- (c) In order to protect his or her personal safety or to prevent the substantial invasion of his or her privacy, or to prevent the identification tag from causing physical harm to the patient, a licensee or certificate holder may request an exemption from the requirements of (a) above. Such requests for an exemption shall be made by the licensee or certificate holder in writing to the Board and shall set forth the reasons why wearing the tag would endanger the licensee's or the certificate holder's personal safety, substantially invade the licensee's or the certificate holder's privacy or physically harm a patient.
- (d) The exemption set forth in © above shall not apply to those facility staff members in a general hospital, where such general hospital requires a facility staff member to wear an identifying badge pursuant to P.L. 1997, c.76 (N.J.S.A. 26:2H-12.8a).

## SUBCHAPTER 7. CERTIFICATION OF NURSE PRACTITIONERS/ CLINICAL NURSE SPECIALISTS

### **13:37-7.1 Application for certification**

- (a) Any nurse who wishes to practice as a nurse practitioner/clinical nurse specialist, or present, call or represent himself or herself as a nurse practitioner/clinical nurse specialist must be certified by the Board.
- (b) Each applicant for certification shall submit the following materials to the Board:
  1. Proof of a current New Jersey registered professional nurse license in good standing;
  2. A completed application form and the application fee set forth in N.J.A.C. 13:37-5.8©1. The application form solicits information including: general biographical, educational and experiential data;
  3. Proof that the applicant has successfully completed the educational requirements set forth in N.J.A.C. 13:37-7.2 or, where applicable, N.J.A.C. 13:37-7.4. The applicant shall obtain verification of successful completion from the school(s) where the applicant completed the educational requirements; and
  4. Proof that the applicant has successfully completed the examination requirements set forth in N.J.A.C. 13:37-7.3 or, where applicable, the certification requirements of N.J.A.C. 13:37-7.4.

### **13:37-7.2 Educational requirements for certification**

- (a) Each applicant for certification shall be required to successfully complete and graduate from a masters level program designed to educate and prepare the nurse practitioners/clinical nurse specialists at a school duly accredited by any national accrediting agency approved by the Board.
- (b) Each applicant shall be required to successfully complete a graduate level credit course in

pharmacology from a school duly accredited by any national accrediting agency approved by the Board. Successful completion of a pharmacology course integrated into the masters level program referred to in (a) above will satisfy this requirement.

- (c) Each applicant who has completed the pharmacology requirements referred to in (b) above more than five years prior to the filing date of his or her initial application for certification under N.J.S.A. 45:11–45 et seq. and this subchapter, shall be required to successfully complete one of the following:
  - 1. A graduate level credit course in pharmacology from a school duly accredited by any national accrediting agency approved by the Board; or
  - 2. Thirty contact hours in continuing professional education which:
    - i. Are related to the applicant’s advanced practice category’s scope of practice;
    - ii. Include pharmacokinetics and pharmacodynamic principles and their clinical application;
    - iii. Include the use of pharmacological agents in the prevention of illness, restoration and maintenance of health; and
    - iv. Are obtained within five years immediately prior to the date of application for prescriptive authority.

#### **13:37–7.3 Examination requirements for certification**

- (a) Each applicant for certification shall be required to successfully pass the highest level practice examination in the area of specialization approved by the Board.
- (b) Each applicant who meets the educational requirements of N.J.A.C. 13:37–7.2 shall apply to take the first available examination for which the applicant is eligible. The applicant may engage in advanced nursing practice pending the results of the first available examination, provided that the applicant clearly delineates the word, “applicant” each time said applicant assumes the title or designation of a “nurse practitioner/clinical nurse specialist” or any of its abbreviations. If the applicant is unsuccessful in passing two consecutive examinations, he or she shall not be eligible to engage in advanced nursing practice but shall not be denied the right to continue to take any examination for certification for which he or she qualifies. Said examination requirements must be completed within two years of the date of initial application.

#### **13:37–7.4 Educational and examination certification requirements in the area of OB/GYN and women’s health**

- (a) Applicants seeking certification as a nurse practitioner/clinical nurse specialist in the specialty area of OB/GYN or women’s health on or before May 2, 2002 may be certified, provided said applicant submits the following to the Board:
  - 1. Proof of successful completion of a post basic nursing certificate program accredited and/or approved by an entity acceptable to the Board of at least one academic year in the area of OB/GYN or women’s health;
  - 2. Proof of current certification from a nationally recognized OB/ GYN or women’s health certifying body approved by the Board;

3. Proof of successful completion of a six month preceptor program approved or given by an entity acceptable to the Board; and
4. Proof of successful completion of a pharmacology course which meets the following requirements:
  - i. A pharmacology course integrated into the post basic certificate program referred to in (a)2 above or equivalent pharmacology course, as determined by the Board;
  - ii. Each applicant who has completed the pharmacology requirements referred to in (a)4i above more than five years prior to the filing date of the initial application for certification under this subchapter shall be required to successfully complete one of the following:
    - (1) A graduate level credit course in pharmacology from a school duly accredited by any national accrediting agency approved by the Board; or
    - (2) Thirty contact hours of continuing professional education courses devoted to pharmacology and drug management approved by the Board as set forth in N.J.A.C. 13:37–7.2©1. Each contact hour shall represent or be equivalent to 50 minutes of actual course attendance.

#### **13:37–7.5 Biennial certification renewal**

- (a) Every person who has been granted initial certification under N.J.S.A. 45:11–47 and 48 and this subchapter shall submit a timely application for certification renewal on a biennial basis. Subject to the grounds for disciplinary action listed in N.J.S.A. 45:1–21 or elsewhere in N.J.S.A. 45:11–23 et seq. or 45:1–14 et seq., a biennial certificate shall be issued by the Board upon the applicant’s submission of proof that during the two calendar years immediately preceding application for renewal the applicant successfully completed 30 contact hours in continuing professional education courses approved by the Board as set forth in N.J.A.C. 13:37–7.2©1. Each contact hour shall represent or be equivalent to 50 minutes of actual course attendance. Failure to submit the aforementioned proof of continuing education shall constitute grounds for the refusal to renew said certification.
- (b) No person shall practice as a nurse practitioner/clinical nurse specialist, or present, call or represent himself or herself as a nurse practitioner/ clinical nurse specialist unless he or she has been duly issued and received a current biennial certificate to practice as a nurse practitioner/ clinical nurse specialist pursuant to N.J.S.A. 45:11–45 et seq.

#### **13:37–7.6 Prescriptive practice**

Each nurse practitioner/clinical nurse specialist shall prescribe/order medications and devices in conformity with the provisions of this subchapter, N.J.S.A. 45:11–45 et seq., (especially N.J.S.A. 45:11–49) and jointly developed protocols. Each nurse practitioner/clinical nurse specialist shall prescribe/order medications and devices only at location(s) where written joint protocols are reviewed, updated and signed at least annually by the nurse practitioner/clinical nurse specialist and his or her collaborating physician.

#### **13:37–7.7 Requirements for issuing prescriptions and orders; dispensing medications**

- (a) Every nurse practitioner/clinical nurse specialist issuing prescriptions and orders or dispensing medications in any setting other than in a licensed acute care or long-term care facility shall provide the following on all said prescriptions and orders:
  1. The prescriber’s full name, address, telephone number, license number, certification number

and academic degree. This information shall be printed on all prescriptions/orders;

2. The full name, age and address of the patient;
3. The date of issuance of prescription/order;
4. The signature of prescriber, hand-written as “R.N., N.P., C.” or “R.N., C.N.S., C.”; and
5. The full name and academic degree of the collaborating physician.

For prescriptions only, the address and telephone number of the collaborating physician shall be printed.

(b) Every nurse practitioner/clinical nurse specialist who prescribes/orders medications shall, in addition to the information set forth in (a) above, provide the following on all prescriptions.

1. The name, strength, route and quantity of drug or drugs to be dispensed;
2. Adequate instructions for the patient; a direction of “prn” or “as directed” alone shall be deemed an insufficient direction;
3. The number of refills permitted or time limit for refills, or both;
4. Every prescription blank shall be imprinted with the words “substitution permissible” and “do not substitute” and shall contain space for the nurse practitioner/clinical nurse specialist’s initials next to the chosen option, in addition to the space required for the signature in (a)4 above;
5. Every nurse practitioner/clinical nurse specialist shall assure that each container of medication dispensed directly to a patient is labeled in a legible manner with at least the following information:
  - i. The full name(s) of the nurse practitioner/clinical specialist and the collaborating physician;
  - ii. The full name of patient;
  - iii. The date medication is dispensed;
  - iv. The expiration date of medication;
  - v. The name, strength and quantity of medication dispensed; and
  - vi. Adequate instructions for the patient regarding the frequency of administration of the medication;
6. When a nurse practitioner/clinical nurse specialist dispenses a pharmaceutical sample which has been packaged and labeled by the manufacturer and such sample package contains the information required by (b)5ii, v and vi above, the information listed in (b)5i and iii, inclusive, above need not be added;
7. When a nurse practitioner/clinical nurse specialist dispenses a medication other than a sample exempted pursuant to (b)6 above in a container without sufficient space for the information required by this subsection, the container shall be placed in a large container or envelope and the larger container or envelope shall be labeled as indicated in this subsection; and
8. Each container of medication dispensed shall contain only one type of medication.



- (c) In no instance shall a nurse practitioner/clinical nurse specialist dispense drugs or sign a blank prescription form without complying with the standards in (b) above.
- (d) In licensed acute care and long term care facilities where routine identifying information is maintained on file in a central repository or in the patients' record, it shall not be required for the nurse practitioner/clinical nurse specialist to include the identifying information contained in (a)1, 2 and 5 above on each prescription or order.

### **13:37–7.8 Certification by endorsement**

A nurse practitioner/clinical nurse specialist certified in another state who wishes to practice as a nurse practitioner/clinical nurse specialist, or present, call or represent himself or herself as a nurse practitioner/clinical nurse specialist must be certified by the Board and must meet all of the requirements provided in N.J.A.C. 13:37–7.1. Said applicant shall submit to the Board an initial certification fee and application for certification by endorsement fee as set forth in N.J.A.C. 13:37–5.8©. The Board may, in lieu of the examination requirements of N.J.A.C. 13:37–7.1(b)4, accept proof that an applicant holds a current certification in a state whose standards at the time of application are substantially equivalent to those of this State.

### **13:37–7.9 Requirements for nurse practitioner/clinical nurse specialists certified pursuant to N.J.S.A. 45:11–48**

- (a) Until October 29, 1994, an individual who submits the following may qualify for certification without completing the educational and examination requirements set forth in N.J.A.C. 13:37–7.2 and 7.3:
  - 1. Proof of a current New Jersey license as a registered professional nurse in good standing;
  - 2. A completed application form and the application fee set forth in N.J.A.C. 13:37–12.1. The application form solicits information including: biographical, educational and experiential data; and
  - 3. Proof that the applicant has been certified as a nurse practitioner/ clinical nurse specialist or advanced practice nurse in one or more of the specialization areas listed in N.J.A.C. 13:37–7.11 by a national accrediting agency approved by the Board and that said national accrediting agency certifies that all persons awarded certification have successfully completed a nurse practitioner/ clinical nurse specialist or advanced practice nurse program which included pharmacology in its required curriculum.
- (b) Each applicant awarded certification under N.J.S.A. 45:11–48 shall be required to meet the pharmacology requirements of N.J.A.C. 13:37–7.2© and the biennial certification renewal requirements of N.J.A.C.13:37–7.4.

### **13:37–7.10 Practice as registered professional nurse**

Nothing in N.J.S.A. 45:11–45 et seq. or this subchapter shall be construed to limit, preclude or otherwise interfere with the practice of nursing as defined by N.J.S.A. 45:11–23 by persons duly licensed as a registered professional nurse in this State, provided that such duties are consistent with the accepted standards of nursing and said registered professional nurse is not represented as a nurse practitioner/clinical nurse specialist.

### **13:37–7.11 Categories of advanced practice**

- (a) The following categories of nurse practitioners or clinical nurse specialists may be certified in accordance with the provisions of N.J.S.A. 45:11–45 et seq. and this subchapter:

1. Adult Health;
2. Family;
3. Pediatric;
4. School;
5. Gerontological;
6. Women's Health;
7. OB/GYN;
8. Neonatal;
9. Psychiatric/Mental Health;
10. Community Health;
11. Perinatal;
12. Maternal/child;
13. Oncology;
14. Critical care;
15. Emergency/Burns/Trauma;
16. Medical-Surgical; and
17. Rehabilitation.

(b) Other categories may be approved by the Board through the rulemaking process. Consistent with requirements for approval of the practice areas outlined in this subchapter, any additional approved practice areas must meet nationally accepted standards.

## SUBCHAPTERS 8 THROUGH 12 (RESERVED)

### SUBCHAPTER 13. NURSE ANESTHETISTS

#### **13:37–13.1 Nurse anesthetist practice**

(a) A licensee who wishes to practice as a nurse anesthetist shall:

1. Hold current licensure as a registered professional nurse in this State;
2. Have graduated from a program in nurse anesthesia accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs of the American Association of Nurse Anesthetists;
3. Pass the certifying examination administered by the Council on Certification of Nurse Anesthetists of the American Association of Nurse

Anesthetists; and

4. Recertify biennially with the Council on Recertification of Nurse Anesthetists of the American Association of Nurse Anesthetists.

- (b) A nurse anesthetist shall only practice at a location which has established written policies and procedures which meet minimum accepted standards of nurse anesthesia practice and the standards of the American Association of Nurse Anesthetists. A nurse anesthetist shall comply with said policies and procedures and shall ensure that they are reviewed annually, revised as necessary and that they address at least the following areas: verification of qualifications; continuing education; delineation of the responsibilities of all personnel; anesthetic agents which may be administered and under what conditions and/or supervision; pre-anesthesia evaluation; patient preparation; intra-operative monitoring; post-operative monitoring; peri-operative documentation (pre/intra/post-operative); administration and documentation of medications; responsibilities of all personnel for assuring that anesthesia supplies and equipment are available and in working order; and patient emergencies.

### **13:37–13.2 Practice pending the results of the examination**

- (a) Pending the results of the first scheduled certifying examination following completion of an approved program in nurse anesthesia, a graduate nurse anesthetist who meets the requirements of N.J.A.C. 13:37–13.1(a)1 and 2 may practice as a nurse anesthetist under the direct supervision of a certified registered nurse anesthetist or qualified physiciananesthesiologist unless otherwise prohibited by State law or regulation.

For the purpose of this subsection direct supervision shall mean the physical presence of said supervisor within the immediately accessible area, unit or suite in which anesthesia is being administered.

- (b) A nurse anesthetist who fails to apply and sit for or fails to pass the first scheduled certifying examination following completion of an approved program in nurse anesthesia shall not continue to practice after the date of said examination.

## **SUBCHAPTER 14. HOMEMAKER-HOME HEALTH AIDES**

### **13:37–14.1 Purpose and scope**

- (a) The rules in this subchapter are designed to protect the health and safety of the public through certification of homemaker-home health aides, pursuant to N.J.S.A. 45:11–24(d)(20).
- (b) This subchapter prescribes standards and curricula for homemakerhome health aide education and training programs which a homemakerhome health aide, as defined in this subchapter, is required to complete in order to work in this State. This subchapter also establishes standards and requirements for homemaker-home health aide certification and for the renewal, suspension or revocation of that certification.
- (c) The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. “Activities of daily living” means the functions or tasks for self-care which are performed either independently or with supervision or assistance. Activities of daily living include at least mobility, transferring, walking, grooming, bathing, dressing and undressing, eating, and toileting. “Homemaker-home health aide” means a person who is employed by a home care services agency and who, under supervision of a registered professional nurse, follows a delegated nursing regimen or performs tasks which are delegated consistent with the provisions of N.J.A.C. 13:37–6.2. “Program coordinator” means the nurse responsible for the training program curriculum.

“Program sponsor” means the agency, hospital or educational institution or entity granted approval by the Board of Nursing to conduct a homemaker-home health aide training program.

### **13:37–14.3 Duties of a homemaker-home health aide; supervision**

- (a) The duties of a homemaker-home health aide may include, but not be limited to, providing personal care and homemaking services essential to the patient’s health care and comfort at home, including shopping, errands, laundry, meal planning and preparation (including therapeutic diets), serving of meals, child care and assisting the patient with activities of daily living.
- (b) A homemaker-home health aide shall not administer medications.
- (c) The registered professional nurse who is supervising a homemakerhome health aide shall ensure that the patient care provided by the homemaker-home health aide does not exceed the tasks and procedures which the homemaker-home health aide has satisfactorily demonstrated, as documented by the registered professional nurse.

### **13:37–14.4 Homemaker–home health aide training program**

- (a) A homemaker-home health aide training program may be conducted by a home care agency licensed by the Division of Consumer Affairs; a home health agency or hospital licensed by the Department of Health; an educational institution approved by the New Jersey State Department of Education or the Department of Higher Education; or a home care agency accredited by an independent national or state accrediting body which is without direct or indirect financial interest in the agency. Said accrediting body shall have prior approval of the Board of Nursing.
- (b) A homemaker-home health aide training program shall consist of at least 76 hours, to include 60 hours of classroom instruction and 16 hours of clinical instruction in a skills laboratory or patient care setting, covering topics outlined in (d) below and N.J.A.C. 13:37–14.5. The student-toinstructor ratio for classroom instruction shall not exceed 30 students to one classroom instructor.
- (c) The 16 hours of clinical instruction in a skills laboratory or patient care setting shall be supervised by a registered professional nurse. The supervision ratio shall not exceed 10 homemaker-home health aides to one registered professional nurse.
- (d) The curriculum for a homemaker-home health aide training program shall include instruction in:
  - 1. The role of unlicensed assistive personnel in nursing care settings, including:
    - i. Long term care, acute care, subacute, outpatient services, rehabilitation centers, home care agencies, assisted living and hospice;
    - ii. The role, responsibilities and scope of practice of the registered nurse;
    - iii. The role, responsibilities and scope of practice of the licensed practical nurse;
    - iv. The role and responsibilities of the unlicensed assistive personnel; and
    - v. Legal and ethical considerations for the unlicensed assistive personnel, such as client rights, confidentiality, accountability, legal documentation, eligibility, reporting physical, mental, verbal, emotional and financial abuse, and maintenance of certification including necessity for unlicensed assistive personnel to complete a course, competency testing and criminal background checks;

2. Foundations for working with people, including:
  - i. Components of communication;
  - ii. Factors that affect communication;
  - iii. Barriers to communication;
  - iv. Enhancing communication;
  - v. Skills for basic communication;
  - vi. Communicating with staff members;
  - vii. Guidelines for communicating with individuals who are visually impaired, hearing impaired, speech impaired, cognitively impaired, experiencing stress or who have transcultural considerations; and
  - viii. An introduction to human behavior including instruction on understanding basic human needs, understanding mental health, emotional growth and needs throughout a person's lifetime, behavior as a response to stress or unmet needs, responses to changes in health, spiritual needs and reactions to loss, grief and dying;
3. Foundations for a safe client environment, including:
  - i. Environmental conditions;
  - ii. Physical conditions including potential hazards and safety measures;
  - iii. Emotional conditions including potential hazards and protective measures;
  - iv. Prevention of, and response to, fire and disaster emergencies;
  - v. Infection control, including the chain of infection, standard precautions, hazardous waste and special concerns regarding tuberculosis (TB), Human Immunodeficiency Virus (HIV) and Hepatitis B;
  - vi. Body mechanics; and
  - vii. Medical emergencies, emergency preparedness and guidelines for handling medical emergencies;
4. The musculoskeletal system, including:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the musculoskeletal system;
  - iii. Examples of changes in the musculoskeletal system to report to a nurse; and
  - iv. Client care procedures related to the musculoskeletal system including exercise, activity and positioning, range of motion, transferring, ambulation, and assistive devices;
5. The integumentary system, including:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the integumentary system;
  - iii. General skin care;

- iv. Examples of changes in the integumentary system to report to a nurse; and
- v. Client care procedures related to the integumentary system including personal hygiene and positioning;
- 6. The upper gastrointestinal system, including:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the upper gastrointestinal system;
  - iii. General care including nutrition across the lifespan, factors affecting nutrition, therapeutic diets and alternative nutrition sources;
  - iv. Examples of gastrointestinal changes to report to a nurse; and
  - v. Client care procedures related to upper gastrointestinal system;
- 7. The lower gastrointestinal system:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the lower gastrointestinal system;
  - iii. General care including factors affecting bowel elimination;
  - iv. Examples of gastrointestinal changes to report to a nurse; and
  - v. Client care procedures related to lower gastrointestinal system;
- 8. The urinary system, including:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the urinary system, specifically incontinence;
  - iii. Examples of urinary changes to report to a nurse; and
  - iv. Client care procedures related to the urinary system;
- 9. The cardiovascular and respiratory systems, including:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the cardiovascular and respiratory systems;
  - iii. Examples of cardiovascular or respiratory changes to report to a nurse; and
  - iv. Client care procedures related to cardiovascular and respiratory systems specifically, vital signs, applying antiembolism stockings, assisting the client to use oxygen and positioning the client for circulatory and respiratory comfort;
- 10. Neurological system, including:
  - i. Overview of anatomy and physiology;
  - ii. Common conditions and disorders of the neurological system;
  - iii. Examples of neurological changes to report to a nurse; and
  - iv. Client care procedures related to the neurological system, specifically, care needs of a client

with cognitive impairment, care of a client with a seizure disorder, care of a client following a stroke and rehabilitation or restorative care;

11. The endocrine system, including:

- i. Overview of anatomy and physiology;
- ii. Common conditions and disorders of the endocrine system;
- iii. Changes to report to a nurse, including hyperglycemia and hypoglycemia and their causes, symptoms and emergency response; and
- iv. Client care related to the endocrine system, specifically foot care, skin care and nutrition for a client with diabetes;

12. The reproductive system, including:

- i. Overview of anatomy and physiology;
- ii. The structure of, function of and age related changes to reproductive organs;
- iii. Common conditions and disorders of the reproductive system, specifically sexually transmitted diseases such as gonorrhea, syphilis, herpes and Acquired Immunodeficiency Syndrome (AIDS); and
- iv. Examples of changes in the reproductive system to report to a nurse;

13. The immune system, including:

- i. Overview of anatomy and physiology; and
- ii. Common conditions and disorders of the immune system, such as AIDS, HIV and cancer;

14. Rest and sleep, including:

- i. Functions of rest and sleep;
- ii. Factors affecting and/or causing sleep disturbances; and
- iii. Promoting sleep; and

15. Death and dying, including:

- i. Responding to the physical and emotional needs of a client with a terminal illness;
- ii. Legal and quality of life issues including the New Jersey Advance Directives for Health Care Act (N.J.S.A. 26:2H–53 et seq.), living wills and “do not resuscitate” orders;
- iii. Signs of impending death; and
- iv. Post-mortem care of the patient.

(e) Written approval of the Board of Nursing is required prior to commencement of the training program, which approval shall be granted for a 12-month period.

(f) At the discretion of the Board, program approval may be contingent upon a visit to the program site by a representative of the Board.

(g) The Board may deny or revoke program approval if the program sponsor does not meet the standards set forth in this subchapter.

### **13:37–14.5 Home care and hospice care training programs**

- (a) In addition to the curriculum training requirements of N.J.A.C.13:37–14.4(d), the training program for a homemaker-home health aide in home care or hospice care shall include instruction in:
1. The role of the homemaker-home health aide, including:
    - i. Settings utilizing homemaker-home health aides;
    - ii. Role of the homemaker-home health aide; and
    - iii. Legal and ethical considerations for the homemaker-home health aide;
  2. The foundations for working with the home care client, the family and significant others of the home care client and home care team members, including:
    - i. Communication with the client and the client’s family and significant others;
    - ii. Barriers to communication;
    - iii. Communication with the home care team; and
    - iv. Maintaining relationships with the client and the client’s family and significant others;
  3. Foundations for a safe client environment, including:
    - i. General home safety;
    - ii. Fire safety;
    - iii. Personal safety and body mechanics;
    - iv. Infection control;
    - v. Emergencies; and
    - vi. Assistance with medications;
  4. Home care considerations, including:
    - i. Food;
    - ii. Housekeeping;
    - iii. Use and care of medical equipment in the home;
    - iv. Cultural diversity; and
    - v. Death and dying;
  5. Infant and child care, including:
    - i. Introduction to infant and child care; and
    - ii. Family dynamics; and
  6. The responsibility of an agency to the homemaker-home health aide, including:
    - i. The supervision to be provided by a registered professional nurse;
    - ii. The agency’s responsibility to comply with Federal and State employment laws;



- iii. Mandatory taxes to be withheld by the agency;
- iv. In-services provided to the homemaker-home health aide;
- v. Job descriptions provided by the agency;
- vi. Personnel policies of the agency;
- vii. Service policies and procedures of the agency; and
- viii. Agency policies on patient and family confidentiality.

### **13:37–14.6 Program sponsor; responsibilities**

- (a) The program sponsor shall provide an appropriately equipped classroom and skills laboratory with sufficient equipment and resources to provide for efficient and effective theoretical and clinical learning experiences.
- (b) The program sponsor shall submit the following to the Board of Nursing at least two months prior to the commencement of the training program:
  - 1. A Board of Nursing application for program approval. The application form requests the name and address of the agency or school, course offering dates and location, tentative number of trainees and name and address of program coordinator. Two supplemental forms which must accompany the application are a faculty approval application which requests the name of the instructor assigned to each session and an instructor personnel record which requests brief biographical and educational information for each instructor;
  - 2. The annual program approval fee for each location at which the program will be offered, as set forth in N.J.A.C. 13:37–12.1C1; and
  - 3. Resume(s) of nursing instructor(s). The resume shall include the instructor's name, address, education (institution, type of degree or diploma, month and year of graduation), work experience (employer's name and address, dates of employment, including month and year, job title, whether full-time or part-time), and New Jersey license or certification number, as appropriate.
- (c) The program sponsor shall not, without prior notice to and approval by the Board, make additions to or deletions from a training program which has been approved by the Board of Nursing.
- (d) The program sponsor shall notify the Board of Nursing, at least two weeks prior to each program session, of the location and the beginning and ending dates of the program session.
- (e) Except in an emergency situation, the program sponsor shall notify the Board of Nursing in writing of any program session cancellation or change, such as a change in location, nursing instructor or dates, at least one week prior to any such cancellation or change. No cancellation or change shall be implemented without the written approval of the Board.
- (f) The program sponsor's responsibilities shall include, but not be limited to, the following:
  - 1. Establishing and implementing policies and procedures for the coordination of instruction, including designating a responsible program manager;
  - 2. Maintaining on file a copy of the lesson plan for the curriculum;
  - 3. Establishing methods or provisions to ensure that an absent student receives the required classroom and/or clinical instruction missed;

4. Establishing and maintaining records for each student. The student record shall include, at a minimum, the following:
  - i. The beginning and ending dates of the program session;
  - ii. An attendance record, including the dates of any makeup sessions; and
  - iii. Evaluation of the student's performance by the classroom instructor and by the registered professional nurse who supervised the student's clinical instruction; and
5. Developing, implementing and maintaining on file a plan for evaluating the effectiveness of the program. The evaluation plan shall include, at a minimum, the following:
  - i. The name of the person responsible for implementing the evaluation plan;
  - ii. An annual written training program evaluation report, including findings, conclusions and recommendations;
  - iii. A written evaluation of instructor(s) performance;
  - iv. Program, faculty and student data, which shall include, at a minimum, the following:
    - (1) The beginning and ending dates of each program session;
    - (2) The number of students enrolled;
    - (3) The number and percentage of students who satisfactorily completed the program;
    - (4) The number and percentage of students who failed the program;
    - (5) The number and percentage of students in each program who passed the New Jersey Homemaker–Home Health Aide Certification Examination; and
    - (6) The number and percentage of students in each program who failed the New Jersey Homemaker–Home Health Aide Certification Examination.
  - (g) The program sponsor shall not use the homemaker-home health aide training program as a substitute for staff orientation or staff continuing education programs.

#### **13:37–14.7 Program coordinator; responsibilities**

- (a) The homemaker-home health aide training program shall be coordinated by a registered professional nurse licensed in New Jersey with:
  1. A minimum of a bachelor's degree in nursing; and
  2. At least two years of full-time or full-time equivalent experience as a registered professional nurse within the five-year period immediately preceding application, one year of which shall have been in community health, public health or home care.
- (b) The program coordinator's responsibilities shall include, but not be limited to, the following:
  1. Ensuring that the curriculum is coordinated and implemented in accordance with this subchapter.
  2. Establishing job descriptions indicating the responsibilities of each instructor;
  3. Ensuring that each instructor meets the qualifications specified in N.J.A.C. 13:37–14.8;
  4. Ensuring that the program sponsor has available the resume of each instructor;

5. Ensuring that each student is supervised by a registered professional nurse during the student's clinical experience;
  6. Ensuring that the registered professional nurse supervising the student evaluates the student's clinical performance and transmits the results of the evaluation to the classroom nursing instructor; and
  7. Ensuring that patient care provided during the training period by the student is provided in a safe and competent manner and that the tasks and procedures delegated to the student in accordance with N.J.A.C. 13:37–6.2 do not exceed the tasks and procedures which the student has satisfactorily demonstrated as documented by the registered professional nurse.
- (c) Program coordinators who do not have a bachelor's degree in nursing but who are otherwise bachelor's or master's prepared and who began their employment on or before June 6, 1994 may qualify for an exemption from the requirements of subsection (a) subject to Board approval.

### **13:37–14.8 Program instructor; responsibilities**

- (a) Except as set forth in (c) below, classroom instruction shall be provided by:
1. A registered professional nurse licensed in New Jersey with at least two years of full-time or full-time equivalent experience as a registered professional nurse within the five-year period immediately preceding application, one year of which shall have been in community health, public health or home care; or
  2. A registered professional nurse who meets the qualifications set forth in (a)1 above and a multidisciplinary team of individuals which may include, but not be limited to, a registered dietitian, licensed social worker, licensed psychologist, licensed physical therapist, mental health consultant, licensed speech-language pathologist, public health nurse, home economist, occupational therapist, and/or member of the clergy.
- (b) Except as set forth in (c) below, supervised clinical experience shall be provided to the student by a registered professional nurse with:
1. At least two years of full-time or full-time equivalent experience as a registered professional nurse within the five-year period immediately preceding application, one year of which shall have been in community health, public health or home care; and
  2. At least six months of full-time or full-time equivalent experience in the supervision of home-maker-home health aides.
- (c) Program instructors who began their employment on or before June 6, 1994 and who have been previously approved by the Board may qualify for an exemption from the requirements of (a) and (b) above.
- (d) The program instructor's responsibilities shall include, but not be limited to, the following:
1. Developing a lesson plan for each content area prior to the starting date of the program. The lesson plan shall include:
    - i. The behavioral objective(s) of the lesson;
    - ii. The content of the lesson;

- iii. A description of clinical activities for each lesson;
  - iv. The hours of instruction; and
  - v. Method(s) of presentation and teacher strategies;
2. Developing and implementing criteria for evaluating the classroom and clinical performance of students; and
  3. Developing and implementing criteria to determine whether a student has satisfactorily completed the training program.

### **13:37–14.9 Homemaker-home health aides; training program requirement**

Every applicant for certification as a homemaker-home health aide in this State shall be required to complete a training program approved by the Board of Nursing, except as provided in N.J.A.C. 13:37–14.12 and 14.14. The applicant shall have completed the training program no later than four months after commencing the program.

### **13:37–14.10 Application for certification; documents required**

- (a) An applicant for certification as a homemaker-home health aide shall submit the following to the Board:
  1. Evidence of satisfactory completion of a homemaker-home health aide training program approved by the Board;
  2. Evidence in such form as the Board may prescribe that the applicant is of good moral character, is not a habitual user of controlled substances and has never been convicted of or pleaded nolo contendere, non vult contendere or non vult to an indictment, information or complaint alleging violation of a Federal or state law; and
  3. The application fee as set forth in N.J.A.C. 13:37–5.8(b)1.

### **13:37–14.11 Competency examination**

- (a) Upon successful completion of an approved training program, the applicant shall register for the next scheduled administration of the competency examination administered by the Board or a Board-approved testing service.
- (b) The applicant may be employed by a home health care agency under the supervision of a registered professional nurse while waiting to take the next scheduled administration of the competency examination.
- (c) The competency examination shall be an examination administered by the Board of Nursing or a Board-approved testing service at least four times a year.
- (d) The passing score on the examination shall be established and reviewed annually by the Board.
- (e) An individual who fails the competency examination may retake the examination provided that he or she registers for the next scheduled administration of the examination.
- (f) An individual awaiting the next scheduled administration of the examination in accordance with (e) above may continue to be employed by a home health care agency under the supervision of a registered professional nurse.
- (g) If the individual fails in the second attempt to pass the examination, he or she shall successfully

complete another homemaker-home health aide training program approved by the Board before taking the examination again. This individual shall not be employed as a homemaker-home health aide until he or she passes the examination.

- (h) Upon application to the Board, an individual may satisfy the examination requirement for certification as a homemaker-home health aide by passing an oral competency evaluation in English or Spanish.

#### **13:37–14.12 Waiver of training program requirement**

Current nursing students who have successfully completed a course in fundamentals/basic nursing may take the competency examination without first completing an approved training program.

#### **13:37–14.13 Initial certification and renewal**

- (a) An individual who passes the competency examination may be eligible for certification by the Board as a homemaker-home health aide.
- (b) Certification shall be renewed on a biennial basis unless disciplinary action against the certified person has been instituted by the Board.

#### **13:37–14.14 Certification by endorsement**

- (a) An individual certified as a homemaker-home health aide in another state who can verify successful completion of an equivalent homemakerhome health aide program and competency examination may be eligible for certification by endorsement.
- (b) An individual who applies for certification by endorsement shall also submit an initial certification fee and an application for certification by endorsement fee as set forth in N.J.A.C. 13:37–5.8.

#### **13:37–14.15 Duties and powers of the Board**

- (a) The Board may deny or revoke training program approval if the program sponsor has failed to comply with N.J.S.A. 45:11–24(d)(20) to (24) or this subchapter.
- (b) The Board may investigate complaints made against a program sponsor or certified homemaker-home health aide and may conduct hearings in connection with such complaints.
- (c) The Board may suspend or revoke the certification of a homemakerhome health aide who has violated any provisions of N.J.S.A. 45:11–24(d)(20) to (24) or this subchapter.
- (d) Any Board action for certification suspension or revocation or training program revocation shall take place only upon notice to the licensee and the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B–1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (e) Decisions on violations shall be a public record maintained by the Board pursuant to N.J.S.A. 45:11–24(d)(20) and (24).

**BOARD OF NURSING  
CHAPTER 45C UNIFORM REGULATIONS**

**SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS**

**13:45C–1.1 Applicability, scope and definitions**

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:
  - 1. The Division of Consumer Affairs;
  - 2. Any professional or occupational licensing board within the Office of Professional/Occupational Boards and any committee, or other subunit of a board or committee located within the Division;
  - 3. The Office of Consumer Protection; or
  - 4. The Legalized Games of Chance Control Commission.

**13:45C–1.2 Licensee’s duty to cooperate in investigative inquiries**

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee’s failure to cooperate, absent good cause or *bona fide* claim of a privilege not identified in N.J.A.C. 13:45C–1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1–21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1–21(h) or the agency’s enabling act.

**13:45C–1.3 Specific conduct deemed failure to cooperate**

- (a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:
  - 1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
  - 2. The failure to timely provide records related to licensee conduct;
  - 3. The failure to attend any scheduled proceeding at which the licensee’s appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee’s responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
  - 4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1–18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the

examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;

5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1–18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1–18 or as may otherwise be provided by law; or
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee’s most recent license renewal or application.

#### **13:45C–1.4 Failure to comply with Board orders as professional or occupational misconduct**

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

#### **13:45C–1.5 Unavailability of privileges in investigative or disciplinary proceedings**

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1–18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1–21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1–18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

#### **13:45C–1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable**

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
  1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
  2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
  3. A Deputy Attorney General.
- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.

- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.



